

IN THE SUPREME COURT OF FLORIDA
BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE
LAURA M. WATSON, NO. 12-613

SC13-1333

**RESPONSE OF THE FLORIDA BAR, HENRY M. COXE, III, AND
GHENETE WRIGHT MUIR TO JUDGE WATSON'S NOTICE OF DIRECT
CRIMINAL CONTEMPT BY THE FLORIDA BAR AND JUDICIAL
QUALIFICATIONS COMMISSION (Coxe, McGrane and Muir)**

---and---

**MOTION TO REJECT THE REPORT AND RECOMMENDATIONS OF
THE JQC BASED UPON PERJURY, FRAUD, SPOLIATION OF
EVIDENCE AND NUMEROUS VIOLATIONS OF THE RULES
REGULATION THE FLORIDA BAR, AND OTHER RELIEF**

Background

On July 24, 2013, the Judicial Qualifications Commission (JQC) issued a Notice of Formal Charges against The Honorable Laura Marie Watson (Watson) (Exhibit A). While proceedings were underway, counsel for Watson served, on November 12, 2013, a Subpoena for Videotaped Deposition Duces Tecum of Non-Party (the "Subpoena") on The Florida Bar ("the Bar") and Assistant Bar Counsel, Ghenette Wright Muir ("Muir") (Exhibit B). The Subpoena sought the production of documents, sought to depose Muir in her capacity as Assistant Bar Counsel, and

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sought to depose members of The Florida Bar Grievance Committee of the Seventeenth Judicial Circuit. *Id.*

Henry M. Coxe, III (Coxe) and Melissa Williamson Nelson (Nelson) agreed to represent the Bar on a pro bono basis with respect to the Subpoena. Coxe and Nelson filed on behalf of the Bar and Muir a Motion to Quash the Subpoena Duces Tecum (Exhibit C). On December 23, 2013 and January 9, 2014 the Bar produced documents to Watson's counsel which were responsive to the Subpoena. *See* Exhibits D and E. On January 7, 2014, counsel for the Bar produced a privilege log to Watson's counsel, identifying those documents which the Bar had determined were protected by privilege. *See* Exhibit F. On January 17, 2014, a hearing was held on the Bar's Motion to Quash (Exhibit G), which motion was granted by the Chair of the JQC Hearing Panel.

Watson now seeks an Order to Show Cause from this court seeking Coxe to be held in direct criminal contempt; an Order to Show Cause from this court seeking Muir to be held in direct criminal contempt; and an Order Appointing an Independent and Neutral Expert to perform an examination of the Bar records. (the "Notice")¹

Conspicuously missing from the various relief Watson requests of this Court is a remand of this matter to the JQC.

¹ This response does not address any relief sought by Watson vis-à-vis the JQC and/or Special Counsel to the JQC, Miles McGrane.

Facts

Trial of Watson was conducted before the JQC on February 10 - 12, 2014, after which the JQC issued Findings, Conclusions and Recommendations of the Hearing Panel, Florida Judicial Qualifications Commission (the “Findings and Recommendations”) on April 15, 2014 (Exhibit H). Included among the JQC’s recommendations was that Watson be removed from the bench for misconduct. *Id.* As reflected in the Notice of Formal Charges, all of the alleged misconduct by Watson occurred in the calendar year 2004. Notwithstanding Watson’s current claims, Watson herself was called as a witness by the JQC. As reflected in the Findings and Recommendations of the JQC, Watson’s testimony was found to be lacking in credibility and inconsistent with the documents that existed from 2004.

In late January 2015, counsel for Watson² advised Coxe of a claim that there existed additional documents (emails) which were responsive to the Subpoena which had not been produced. Counsel for Watson had discussions with Coxe, as reflected in a letter dated January 23, 2015 (Exhibit I).

On February 17, 2015, Coxe filed with this Court a Notice of Discovery of Additional Materials Subject to Subpoena (Exhibit J) wherein Coxe informed this Court and all other counsel involved in these proceedings that the responsiveness

² Counsel herein refers to Robert A. Sweetapple, who was also Watson’s counsel during the 2013 subpoena issue. The Notice to which this response is being addressed was filed by Colleen Kathryn O’Loughlin, who has represented herself to be “co-counsel” for Watson. No mention is made of the attorney or attorneys to whom she is co-counsel, and Mr. Sweetapple’s name is nowhere to be found on the instant Notice.

issue had arisen and that Coxe had undertaken to resolve the matter. The Bar retained national e-discovery counsel to conduct a review of Florida Bar records to determine if materials existed that had not been provided in response to the Subpoena, and to determine the nature of those materials.

Watson's focus is on emails and related communications between attorney Larry Stewart, members of his firm, William Hearon and others with The Florida Bar and JQC representatives. Watson urges that these emails would have provided a basis for Watson's counsel to more effectively cross-examine Stewart at the JQC trial. *See Notice.*

“These newly discovered Improperly Withheld Emails show the constant and improper lobbying by Stewart and Hearon for more aggressive prosecution of Judge Watson and the PIP Lawyers, and improper directions thereto by Stewart, and the TFB and JQC's willingness to be directed in such prosecution by same.”

(Notice, p. 7)

Watson ignores the fact that the very examples produced by her counsel to Coxe, purportedly indicative of an incomplete response to the Subpoena, simply duplicate materials that had already been provided, i.e., communications which show that Stewart and others aggressively interacted with The Florida Bar. A review of Exhibits D and E to this Response, which were produced to Watson in 2013 and 2014, conclusively demonstrate the extent to which Stewart and Hearon communicated with The Florida Bar. Watson's counsel completely ignores that

the issue in this matter is Watson's behavior in 2004, not Stewart (or others) communications with TFB or counsel afterwards. After having been called by the JQC to testify at trial, her credibility was found lacking and her testimony was found to be inconsistent with other documents.

Subsequent to filing the Notice of Discovery of Additional Materials Subject to Subpoena, and with the benefit of e-discovery counsel, Jill Griset ("Griset"), Coxe attempted to arrange communications between Griset and counsel to Watson in order to further define the particular concerns raised by Watson's counsel. *See* Exhibit K. Coxe's efforts were unsuccessful, as were similar efforts of e-discovery counsel, as reflected in the April 10, 2015 letter to counsel for Watson (Exhibit L) in that Watson's counsel has not responded to these efforts. Nevertheless, the e-discovery counsel continued its efforts. The additional documents identified as a result of these efforts include public pleadings and emails which are remarkably similar in nature and substance to those materials previously produced to Watson before the JQC trial. These emails were exchanged years after the misconduct for which Watson was found guilty by the JQC and which gave rise to the JQC's recommendation of her removal.

Legal Argument

Watson seeks sanctions against the Bar in relation to its compliance with a subpoena duces tecum. Specifically, she requests that the Court (1) appoint an "IT

expert” to “perform an IT examination” of the Bar records “regarding Judge Watson, her Public Record Requests, and her Discovery Requests in the JQC Proceedings,” and (2) hold Muir and Coxe in direct criminal contempt. There is no basis for the relief sought by Watson.

Watson’s Request for Appointment of an Independent IT Expert

Watson offers no authority to support her request that this Court sanction a non-party for the non-party’s alleged incomplete response to a subpoena.³ Despite the unreasonable nature of Watson’s demands, the Bar has continued its efforts to satisfy Watson’s requests. Indeed, the Bar has retained e-discovery counsel to do this. Watson now suggests the need to have an independent expert to oversee the Bar’s production of documents – in response to the Subpoena and to public records requests served on the Bar by Watson.⁴

The appointment of an independent expert is an extreme measure, especially in relation to a non-party like the Bar. *See Alexander v. Fed. Bureau of Investigation*, 186 F.R.D. 128, 133 (D.C. Cir. 1998) (denying party’s request for special master to oversee non-party’s discovery efforts and stating that “the appointment of a special master is an extraordinary action”). Further, sanctions

³ Watson’s argument that the Bar fraudulently and intentionally withheld emails (which purportedly demonstrated Stewart’s active involvement in the matter) is belied by the Bar’s document production in January 2014, wherein the Bar produced multiple letters and emails from Stewart to Bar personnel.

⁴ Watson’s public records requests purportedly served on The Florida Bar and her requested relief related to those requests is neither germane to the issues before this Court nor within the Court’s jurisdiction in this matter. These public records requests were made after the JQC trial and are not part of the record to be reviewed.

against the Bar are not warranted given their status as a non-party and their continued attempts at compliance. *See Guy Chemical v. Romaco AG*, 243 F.R.D. 310, 313 (N.D. Ind. 2007) (finding non-party status to be a “significant factor” when evaluating the burden a subpoena imposes). Sanctions are inappropriate where a “good faith effort to comply” has been made by the non-party. *Dunkin’ Donuts Inc. v. Three Rivers Entm’t and Travel*, 42 Fed. Appx. 573, 575 (4th Cir. 2002) (reversing order of sanctions upon non-party where non-party was not given an opportunity to demonstrate good cause for its actions or a good faith effort to comply). The Bar’s hiring of e-discovery counsel and its current production are undisputed evidence of its good faith efforts at compliance. Simply put, sanctions are not reasonable here. *See Whitlow v. Martin*, No. 04-3211, 2008 WL 2414830, at * 9 (C.D. Ill. 2008) (declining to impose sanctions against non-party, but ordering non-party to comply with certain subpoena requests); and *Boby Express Co. v. Guerin*, 930 So.2d 842, 844 (Fla. App. 2006) (reversing sanctions applied to non-party as they amounted more to a finding of criminal contempt).

Watson’s Request for Direct Criminal Contempt as to Coxe and Muir

While recognizing that it is procedurally premature to respond to a request for an order to show cause prior to the issuance of such an order, Coxe and Muir feel compelled to briefly respond since what has been alleged in the Notice with

respect to this issue is consistent with the pattern of other baseless claims of the Notice.

The authority upon which Watson would contend that this Court should issue an order to show cause is found at the “Notice,” page 2, wherein Watson says that the direct criminal contempt authority is “pursuant to the court’s inherent power, Florida Statute § 38.22, Rule-3-7.7(g) of TFB Rules, and Fla.R.App.P. 9.410(a).” Not one of the foregoing authorities provides for a sanction of direct criminal contempt against any person. Florida Statute § 38.22 simply empowers the courts of Florida to punish for contempt generally. Rule 3-7.7(g) of TFB Rules addresses the potential finding of contempt of a respondent lawyer in a Florida Bar disciplinary proceeding, not in a Judicial Qualifications Proceeding. Coxe and Muir are not respondents in a Florida Bar proceeding. Florida Rule of Appellate Procedure 9.410(a) provides for the imposition of sanctions for violation of the Florida Appellate Rules. There is no allegation that Coxe or Muir engaged in conduct in contravention of Florida’s Appellate Rules, and in fact neither Coxe nor Muir are parties to this matter.

The legal authority (which Watson totally fails to acknowledge) for direct criminal contempt is found at Rule 3.830, Rules of Criminal Procedure. Direct criminal contempt may be punished only if the court “saw or heard the conduct constituting the contempt committed in the actual presence of the court.” The

claim that Coxe and Muir should be held in direct criminal contempt is unsupported by any authority, statute or rule. Watson's argument itself would be subject to sanctions under Florida Appellate Rule 9.410(a).

Conclusion

Procedurally, it was Judge Crow's Final Judgment that served as the basis for the Bar's investigation. As it responsibly should have, the Bar acted upon Judge's Crow's Final Judgment and referral. When Watson became a judge, the matter was transferred to the JQC for further action, if deemed warranted, as the Bar no longer had jurisdiction. Emails from Stewart – or anyone else for that matter – directed to the Bar, were immaterial to the JQC findings of misconduct.

The Bar, Coxe and Muir respectfully urge the Court to deny any of the relief sought by Watson.

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Attorney for The Florida Bar, Henry
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Muir

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email on this 10th day of April, 2015 to the following:

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/s/Rutledge R. Liles

EXHIBIT A

RECEIVED, 7/24/2013 10:38:34, Thomas D. Hall, Clerk, Supreme Court

BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE NO. 12-613
RE: LAURA MARIE WATSON

NOTICE OF FORMAL CHARGES

TO: The Honorable Laura Marie Watson
Circuit Judge, 17th Judicial Circuit
Room 1005B
201 S.E. 6th Street
Fort Lauderdale, FL 33301

YOU ARE HEREBY NOTIFIED that the Investigative Panel of the Florida Judicial Qualifications Commission, by the requisite vote, has determined, pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission, as revised, and Article V, Section 12(b) of the Constitution of the State of Florida, that probable cause exists for formal proceedings to be, and the same are, hereby instituted against you to inquire into charges based on allegations that you violated, Canons 1 and 2A of the Code of Judicial Conduct and violated Florida Rules of Professional Conduct 3-4.2, 3-4.3, 4-1.4(a), 4-1.4(b), 4-1.5(f)(1), 4-1.5(f)(5), 4-1.7(a), 4-1.7(b), 4-1.7(c), 4-1.8(a), 4-1.8(g), 4-8.4(a), 4-8.4(c) and 5-1.1(f), to wit:

1. Prior to 2002, the firms of Marks & Fleischer, P.A., Kane & Kane, and Laura M. Watson, P.A. d/b/a Watson and Lentner, acting respectively by and through the firm principles, Gary Marks, Amir Fleischer, Charles Kane, Respondent Harley Kane, Laura Watson and Darin James Lentner, (hereinafter referred to collectively as the "PIP claim attorneys") represented healthcare provider clients in numerous lawsuits against various Progressive Insurance

Companies (hereafter referred to as “Progressive”) regarding Personal Injury Protection claims (hereinafter referred to as “PIP claims”).

2. You and the other PIP claim attorneys pooled your resources and solicited health care providers throughout Florida. By 2002, you, with the other PIP claim attorneys, collectively had approximately 440 health care provider clients who had some 2,500 PIP claims for unpaid bills and associated attorneys’ fees against Progressive.

3. In 2002, you, together with the PIP claim attorneys, decided to pursue bad faith claims against Progressive in addition to the PIP claims.

4. In 2002 you joined with the PIP claim attorneys in hiring Stewart Tilghman Fox & Bianchi, William C. Hearon, P.A. and Todd S. Stewart, P.A. (hereinafter referred to as the “bad faith claim attorneys”) to handle the bad faith claims.

5. Such bad faith claims were filed in the case styled *Fishman & Stashack, M.D., P.A. d/b/a Goldcoast Orthopedics, et al., v. Progressive Bayside Insurance Company, et al.*, Case No. CA-01011649, in the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida. (Hereinafter referred to as “Goldcoast”).

6. The PIP claim attorneys, including yourself, entered into a contract with the bad faith claim attorneys wherein suit would be brought against Progressive alleging the bad faith claims on behalf of your mutual clients. It was contemplated that the clients would receive 60% of that recovery and the attorneys’ fees would amount to 40%. It was further agreed by the parties that the bad faith claim attorneys would receive 60% of the attorneys’ fee so recovered.

7. Initially the Goldcoast case encompassed a core group of approximately 40 healthcare providers. It was contemplated that bad faith claims would ultimately be asserted on behalf of all of the clients of the PIP claim attorneys.

8. In the course of said litigation, you and the PIP claim attorneys provided the bad faith claim attorneys with a list of 441 healthcare provider clients with either perfected or to be perfected bad faith claims and then approved a master claim list of said clients to be used in settlement negotiations with Progressive.

9. You, the PIP claim attorneys and the bad faith attorneys worked together for approximately two years.

10. The bad faith claim attorneys successfully obtained favorable rulings requiring disclosure of discovery by Progressive which strengthened the case. Specifically, the bad faith claim attorneys had obtained a ruling requiring Progressive to disclose damaging internal billing records. This ruling provided leverage for all bad faith and PIP claims.

11. In January 2004, the bad faith claim attorneys commenced settlement negotiations with Progressive which continued for the next several months.

12. You and the other PIP claim attorneys were periodically updated.

13. In May, 2004, certain PIP claim attorneys on their behalf and on your behalf secretly met with Progressive and settled all claims without notice to the bad faith claim attorneys.

14. The settlement was an aggregate settlement of \$14.5 million dollars for all PIP claims and all existing or future bad faith claims of all 441 healthcare provider clients. It was agreed to by you and the PIP claim attorneys without prior notice to or obtaining a fully informed consent from the clients. The methodology used by you and the PIP claim attorneys was intended to maximize your attorneys' fees at the expense of the clients and the bad faith claim attorneys.

15. To memorialize the settlement, the PIP claim attorneys met with the Progressive attorneys and drafted a Memorandum of Understanding (hereinafter referred to as "MOU") which documented that all of the healthcare providers' PIP and bad faith claims, whether filed, perfected or just potential, were settled for the undifferentiated amount of \$14.5 million dollars.

16. The secret settlement agreement between the PIP claim attorneys and Progressive failed to allocate any monies to the bad faith claims, although all the claimants were expected to release such claims.

17. After learning of the settlement and discovering that no monies had been allocated to the bad faith claims, the bad faith claim attorneys protested and objected to the MOU.

18. Thereafter, the MOU was amended, arbitrarily allocating \$1.75 million dollars of the total settlement towards the settlement of the Goldcoast plaintiff's bad faith claims.

19. Again, no monies were allocated to the bad faith claims of approximately 400 clients who were not included in the Goldcoast case, although those claims were required to be released as part of the settlement.

20. To consummate the settlement you and the other PIP claim attorneys prepared letters addressed to the healthcare provider clients. The letters did not disclose the several conflicts of interest inherent in the settlement, did not provide the clients a closing statement and did not advise the clients of the material facts necessary to make an informed decision about the case or execution of the releases.

21. You and the other PIP claim attorneys received the settlement funds from Progressive on or about June 22, 2004, and these funds were placed within the respective attorneys' trust accounts. Upon information and belief the firm of Laura M. Watson, P.A. d/b/a Watson and Lentner, received the amount of \$3,075,000.00. From which \$361,470.30 in

benefits were paid to your clients. You failed to provide your clients with closing statements as required by Florida Bar rules.

22. When the bad faith claim attorneys learned the particulars of the secret settlement they also notified you and the other PIP claim attorneys that in accordance with Florida Bar rules governing claims of disputed ownership of property, all of the attorneys' fees should be held in escrow.

23. You did not hold the funds in trust and instead disbursed the settlement fees contrary to Florida Bar Rules regulating trust accounts.

24. By the conduct set forth above, you violated R. Regulating Fla. Bar **3-4.2** [Violation of the Rules of Professional Conduct as adopted by the rules governing The Florida Bar is a cause for discipline]; **3-4.3** [The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of an act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.]; **4-1.4(a)** [A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.]; **4-1.4(b)** [A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.]; **4-1.5(f)(1)** [As to contingent fees: (1) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in

which a contingent fee is prohibited by subdivision (f)(3) or by law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.]; **4-1.5(f)(5)** [As to contingent fees: In the event there is a recovery, upon the conclusion of the representation, the lawyer shall prepare a closing statement reflecting an itemization of all costs and expenses, together with the amount of fee received by each participating lawyer or law firm. A copy of the closing statement shall be executed by all participating lawyers, as well as the client, and each shall receive a copy. Each participating lawyer shall retain a copy of the written fee contract and closing statement for 6 years after execution of the closing statement. Any contingent fee contract and closing statement shall be available for inspection at reasonable times by the client, by any other person upon judicial order, or by the appropriate disciplinary agency.]; **4-1.7(a)** [A lawyer shall not represent a client if the representation of that client will be directly adverse to the interests of another client, unless: (a) the lawyer reasonably believes the representation will not adversely affect the lawyer's responsibilities to and relationship with the other client; and (2) each client consents after consultation.]; **4-1.7(b)** [A lawyer shall not represent a client if the lawyer's exercise of independent professional judgment in the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person or by the lawyer's own interest, unless: (1) the lawyer reasonably believes the representation will not be adversely

affected; and (2) the client consents after consultation.] ; **4-1.7(c)** [When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.]; **4-1.8(g)** [A lawyer who represents 2 or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client consents after consultation, including disclosure of the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.]; **4-8.4(a)** [A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.]; **4-8.4(c)** [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be a professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule.]; and **5-1.1(f)** [Disputed Ownership of Trust Funds. When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be treated by the lawyer as trust property, but the portion belonging to the lawyer or law firm shall be withdrawn within a reasonable time after it becomes due unless the right of the lawyer or law firm to receive it is disputed, in which event the portion in dispute shall be kept separate by the lawyer until the dispute is resolved.]

These acts, if they occurred as alleged, would impair the confidence of the citizens of this State in the integrity of the judicial system and in you as a judge; would constitute a violation of

the Preamble and Canons of the Code of Judicial Conduct; would constitute conduct unbecoming a member of the judiciary; would demonstrate your unfitness to hold the office of judge; and would warrant discipline, including, but not limited to, your removal from office and/or any other appropriate discipline recommended by the Florida Judicial Qualifications Commission.

You are hereby notified of your right to file a written answer to the above charges made against you within twenty (20) days of service of this notice upon you.

DATED this 24th day of July, 2013.

Respectfully submitted,

FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION



MILES A. McGRANE, III, ESQ.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **NOTICE OF FORMAL CHARGES** has been furnished by E-mail and U.S. mail to PETER R. GOLDMAN, ESQ., Broad and Cassel, pgoldman@broadandcassel.com, One Financial Plaza, 100 S.E. Third Avenue, Suite 2700, Fort Lauderdale, FL 33394, attorney for The Honorable Laura Marie Watson, this 24th day of July, 2013.



Attorney

EXHIBIT B

2464

RECEIVED

NOV 15 2013 BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

THE FLORIDA BAR
FORT LAUDERDALE OFFICE

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA M. WATSON

SC13-1333
DATE: 11-15-13 TIME: 2:10 AM/PM
SERVED: Public Perspective
CAPACITY: Public Agent
SERVER: PA PS# 1244

SUBPOENA FOR VIDEOTAPED DEPOSITION DUCES TECUM OF NON-PARTY

To: Ghenete Wright Muir, Esquire
The Florida Bar
1300 Concord Terrace, Suite 130
Sunrise, Florida 33323

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the office of United Reporting, Inc. 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), on **Thursday, December 5, 2013, at 1:00 p.m.**, before United Reporting, Inc., Notary Public, State of Florida at Large, or any other officer authorized by law for the taking of your videotaped deposition.

If you fail to:

- 1) appear as specified; or
- 2) object to this subpoena,

you may be in contempt of court. You are subpoenaed by the attorney whose name appears on this subpoena and unless excused from this subpoena by the attorney or the Court, you shall respond to this subpoena as directed.

DATED on November 15, 2013

Inquiry Concerning a Judge No. 12-613, Laura M. Watson
SC13-1333; Supreme Court of Florida

FOR THE COURT
SWEETAPPLE, BROEKER & VARKAS
Co-counsel for Judge Watson
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Email: Pleadings@sweetapplelaw.com

By: 

ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12th day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17th Judicial Circuit, Room 1005B, 201 SE 6th Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datan Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridajqc.com; bkennerly@floridajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: 

ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA M. WATSON

**NOTICE OF TAKING VIDEOTAPED DEPOSITION DUCES TECUM OF NON-
PARTY**

PLEASE TAKE NOTICE that the undersigned attorney will take the videotaped deposition of the below named person at United Reporting, Inc., 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), upon oral examination before United Reporting, Inc., Notary Public or officer authorized by law to take depositions in the State of Florida.

Name: Ghenete Wright Muir, Esquire

Date: Thursday, December 5, 2013

Time: 1:00 p.m.


The oral examination will continue from day to day until completed. The deposition is being taken pursuant to the Rules of Civil Procedure.

Deponent is directed to bring with her the documents outlined in Schedule "A" attached hereto.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding shall contact the undersigned attorney at (561) 392-1230 no later than seven days prior to the proceedings; for hearing impaired, telephone 1-800-955-8771 (TDD), via Florida Relay Service.

Inquiry Concerning a Judge No. 12-613, Laura M. Watson
SC13-1333; Supreme Court of Florida

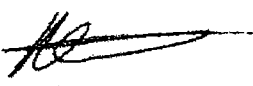
SWEETAPPLE, BROEKER & VARKAS, PL
Co-counsel for Judge Watson
165 East Boca Raton Road
Boca Raton, Florida 33432-3911
Telephone: (561) 392-1230
Email: Pleadings@sweetapplelaw.com

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12th day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17th Judicial Circuit, Room 1005B, 201 SE 6th Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datan Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridaajqc.com; bkennerly@floridaajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

**JUDGE LAURA M. WATSON'S SCHEDULE "A" TO VIDEO SUBPOENA DUCES
TECUM**

DEFINITIONS AND INSTRUCTIONS

1. "Documents" means any tangible thing, recording or reproduction in any manner, any visual or auditory data in your possession, including without limiting the generality of its meaning, correspondence, memoranda, transcripts, stenographic or handwritten notes, telegrams or telexes, letters, reports, graphs or charts, ledgers, invoices, diaries or calendars, minute books, meeting minutes, computer print-outs, prospectuses, financial statements, annual, quarterly or other filings with any governmental agency or department, annual reports (including schedules thereto), statistical studies, articles appearing in publications, press releases, video or audio tapes, computer data bases, hard drives, storage tapes or disks, all e-mail data, and any papers on which words have been written, printed, typed or otherwise affixed, and shall mean every copy of every document where such copy is not an identical copy of an original (whether different from the original by reason of any notation made on such copy or any other reason).

2. The term "correspondence" refers to any "documents" as that term is defined above, that have been exchanged from one person or entity to another person or entity or which were intended to be exchanged or prepared in order to be so communicated from one person or entity to another, whether or not such correspondence was actually exchanged, mailed or posted.

3. To the extent not clarified above, this request for production specifically includes "electronic communications" which includes electronic mail messages (e-mail), text messages, and other electronic communications, which may or may not be reduced to hard copy in the normal

course of business and which may be stored or archived on file servers, hard or floppy disks or diskettes, back-up tapes, or other storage media.

4. If any of these documents cannot be produced in full, produce them to the extent possible, specifying your reasons for your inability to produce the remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion.

5. As used herein, the words "pertain(s) to" or "mentions" shall mean: relates to, refers to, contains, concerns, describes, mentions, constitutes, supports, corroborates, demonstrates, proves, evidence, refutes, disputes, rebuts, controverts and/or contradicts.

6. Judge Laura M. Watson's Exhibit List is attached as **Exhibit "A"**.

7. Pursuant to Florida Rules of Civil Procedure 1.280(5), regarding **claims of privilege**, for each document responsive to these requests which is withheld under any claim of attorney-client privilege or work product privilege, provide a statement by a person having knowledge setting forth as to each document:

- (a) Name and title of the author(s);
- (b) The name and title of each person to whom the document was addressed;
- (c) The name and title of each person to whom a copy of the document was sent;
- (d) The date of the document;
- (e) The number of pages;
- (f) A brief description of the nature and subject matter of the document;
- (g) The nature of the claimed privilege;
- (h) The category or categories of this request to which the document is responsive; and

- (i) The exact location of the original and each copy as of the date of the receipt of this request.

Pursuant to rule a “ the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.” Florida Rules of Civil Procedure 1.280(5).

8. The term “interested persons” means the following individuals:
- All persons listed on Judge Laura M. Watson’s Exhibit List attached as **Exhibit “A”** or any of their employees or associates.
 - Miles A. McGrane, III or any person who is employed by or a partner at The McGrane Law firm.
 - Any member of the JQC, i.e., Ricardo Morales, III, Hon. Kerry I. Evander, Alan B. Bookman, Shirlee P. Bowne, Michelle K. Cummings, Mayanne Downs, Harry R. Duncanson, Hon. Thomas B. Freeman, Hon. Krista Marx, Steven R. Maxwell, Hon. Michelle T. Morley, Hon. Robert Morris, Jerome S. Osteryoung, Hon. James A. Ruth, John G. White, III, Brooke S. Kennerly, Michael L. Schneider, including retirees, i.e., Preston Silvernail and Paul Backman.
 - Any partner at the firm of Klein Glasser Park Lowe & Pelstring, PL, Mark J. Sullivan, Esq. or any person who is employed by or a partner at that firm.
 - Lauri Waldman Ross or any person who is employed by or is a partner at the firm Ross & Girtten.

9. The term "**Insurance Companies**" means: Allstate Insurance Company; United Automobile Insurance; USAA Insurance Company; GEICO; Progressive Insurance; State Farm Insurance; Liberty Mutual; First Mercury Insurance and any of these insurance companies' subsidiaries or affiliates.

10. "**Attorney's Fees Litigation**" means the lawsuit which was brought in the 15th Judicial Circuit in Palm Beach County, Florida, in the case of Stewart, Tilghman, Fox and Bianchi P.A., William C. Hearon, P.A., and Todd S. Stewart, P.A., versus Kane and Kane, Laura M. Watson, P.A. et al., Case No. 502004 CA 006138 XXXX MBAO.

11. "**Grievance Complaint**" means the 2008 Grievance Complaint filed by Larry Stewart and William Hearon or any other person with the Florida Bar against Laura M. Watson and/or Laura M. Watson, P.A. which "**pertain(s) to**" or "**mentions**" Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012.

12. The "**Stewart Law Firm**" means the law firm of Stewart, Tilghman, Fox and Bianchi P.A. or any of the firm's associates or employees.

13. The "**Hearon Law Firm**" means the law firm of William C. Hearon, P.A. or any of the firm's associates or employees.

14. The "**Todd S. Stewart Law Firm**" means the law firm of Todd S. Stewart, P.A. or any other subsequent name changes or new law firms wherein Todd S. Stewart, Esq. is a partner or associate.

15. Unless otherwise specified, all time frames shall be from 1/1/2008 to date of production.

DOCUMENTS REQUESTED

1. A copy of the Complaint and your complete file which **"pertain(s) to" or "mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012. This request includes all affidavits of witnesses in the Florida Bar's possession at the time of the probable cause finding and any and all **"documents"** which were provided to the **"interested persons"**.
2. Any and all **"documents"** as defined above, between any you or any other Florida Bar Grievance Committee member or **"interested persons"** as defined above, that **"pertain(s) to" or "mentions"** Laura Watson from 2008 through the date of production.
3. Any **"documents" "correspondence" or "electronic communications"** that **"pertain(s) to" or "mentions"** Laura Watson or Laura M. Watson d/b/a Watson and Lentner between the Florida Bar and the Florida JQC member identified above from May 1, 2012 through the present.
4. Copies of any **"documents" "correspondence" or "electronic communications"** between you and any **"interested persons"** as defined above regarding the prospects for your personal employment.
5. A copy of transcripts of testimony of witnesses or affidavits which **"pertain(s) to" or "mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause by the Florida Bar in October 2012.
6. A copy of all meeting minutes, meeting books, stenographic or handwritten notes which **"pertain(s) to" or "mentions"** Laura M. Watson which reflects the votes of the Bar Grievance Committee individually on each and every numbered allegation in the probable cause finding.

7. Phone records which reflect conversations with any of the "interested persons" from 1/1/2008 to the date of production.
8. All Complaints of "interested persons" in the Florida Bar's possession at the time of the probable cause hearing.

RECEIVED, 9/16/2013 17:23:44, Thomas D. Hall, Clerk, Supreme Court

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING A JUDGE No. 12-613

LAURA M. WATSON

**JUDGE LAURA M. WATSON'S NOTICE OF FILING PRELIMINARY
WITNESS LIST PURSUANT TO ORDER ON STATUS CONFERENCE
AND MOTION FOR ENLARGEMENT OF TIME TO FILE RULE 25
AFFIDAVITS TO DISQUALIFY MEMBERS OF THE HEARING PANEL
AND DEMAND FOR DISCLOSURES**

Pursuant to the August 26, 2013 Order on status Conference, Judge Watson serves her preliminary witness list below. Pursuant to Fla. R. Civ. P. 1.090(b) and Rule 12 and 25, Rules of the JQC, Judge Laura M. Watson requests that the time to file affidavits to disqualify members of the Hearing Panel be enlarged until 15 days after the Hearing Panel discloses their personal relationships, professional associations, professional activities, Florida Bar activities, or business interests, with the list of witnesses in this cause.

**WITNESSES WHOSE TESTIMONY IS EXPECTED TO BE OFFERED AT
THE FINAL HEARING**

1. Any and all witnesses list by the JQC.

2. Chris Searcy, Esq.
Searcy Denny Scarola Barnhart & Shipley P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
3. John Shipley, Esq.
Searcy Denny Scarola Barnhart & Shipley P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
4. Jack Scarola, Esq.
Searcy Denny Scarola Barnhart & Shipley P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
5. Larry S. Stewart, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
6. Gary D. Fox, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
7. David W. Bianchi, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131

8. James B. Tilghman, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
9. Eileen Tilghman Moss, Esq.
Shook Hardy and Bacon LLP
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
10. Ed Moss, Esq.
Shook Hardy and Bacon LLP
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
11. Todd S. Stewart, Esq.
The Law Offices of Todd S. Stewart, P.A.
824 W. Indiantown, Rd.
Jupiter, FL 33458-7566
12. Gerald Stashak, M.D.
Gerald Stashak M.D.
1411 N. Flagler Drive
West Palm Beach, FL 33401
13. The Honorable David Franklin Crow
Circuit Court, 15th Judicial Circuit
West Palm Beach, FL 33401
14. Rutledge R. Liles, Esq.
Liles Gavin & George, P.A.
225 Water Street, Ste. 1500
Jacksonville, FL 32202-5145

15. J. Michael Burman, Esq.
Burman, Critton, Luttier & Coleman
515 N. Flagler Drive, Suite 400
West Palm Beach, FL 33401
16. Richard Parrillo, Jr.
United Automobile Insurance Company
3909 N.E. 163 Street, #304
North Miami, FL 33160
17. Jennifer C. Erdelyi, Esq.
Colondy, Fass, Talenfeld, Karlinsky & Abbate, P.A.
100 SE 3rd Ave.
Ft. Lauderdale, FL 33394
18. Maurice Abate, Esq.
Colondy, Fass, Talenfeld, Karlinsky & Abbate, P.A.
100 SE 3rd Ave.
Ft. Lauderdale, FL 33394
19. Herb Stettin, Esq.
5401 Hammock Dr.
Coral Gables, FL 33156
20. Larry Kopelman, Esq.
Kopelowitz Ostrow Wieselberg Keechl
200 SW 1st Avenue, 12th Floor
Fort Lauderdale, FL 33301
21. Fran Anania, Esq.
Anania, Bandklayer Blackwell Baumbarten & Tornicella
100 SE 2nd Street, Ste. 3350
Miami, FL 33131

22. Judith W. Levine, Esq.
9105 NW 25th Street
Doral, FL 33172-1500
23. Don McKeever
807 W. Morse Blvd.
Winter Park, FL 32789
24. Elizabeth Walker Finizio, Esq.
Finizio & Finizio
106 SE 9th Street
Fort Lauderdale, FL 33316
25. Scott Jason Wieselberg, Esq.
Kopelowitz Ostrow Wieselberg Keechl
200 SW 1st Avenue, 12th Floor
Fort Lauderdale, FL 33301
26. Mindy Elizabeth Jones, Esq.
Coast to Coast Legal Aid Services
P.O. Box 120970
Fort Lauderdale, FL 33301
27. Marcia Bour
Cypress Financial Center, Suite 900
5900 North Andrews Avenue
Fort Lauderdale, Florida 33309
28. Jane Hill Quinn
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5900 North Andrews Avenue
Fort Lauderdale, Florida 33309

29. Cherrie Smith Valbrun, Esq.
Kim Vaughn Lerner LLP
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Fort Lauderdale, FL 33394-0008
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31. Julio Gonzalez, Esq.
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32. Irwin R. Gilbert, Esq.
11382 Prosperity Gardens, Ste. 222-223F
Palm Beach Gardens, FL 33410
33. Peter R. Goldman, Esq.
Broad & Cassel
P.O. Box 14010
Fort Lauderdale, FL 33302
34. John P. Seiler, Esq.
2850 N. Andrews Ave.
Wilton Manors, FL 33311
35. John R. Beranek, Esq.
P.O. Box 391
Tallahassee, FL 32302

36. Richard Zaden, Esq.
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Wilton Manors, FL 33311
37. Alan Anthony Pascal, Esq.
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Fort Lauderdale, Florida 33309
38. Ghenete Elaine Wright Muir, Esq.
Cypress Financial Center, Suite 900
5900 North Andrews Avenue
Fort Lauderdale, Florida 33309
39. Debra Shaeffer Bilodeau
Total Orthopedic Care
4850 W. Oakland Park Blvd., Suite 201
Lauderdale Lakes, FL
40. Steven Cimerberg, DO
10063 Cleary Blvd.
Plantation, FL 33424
41. Eric Fishman, MD
Eric Fishman MD PA
1411 N. Flagler Drive
West Palm Beach, FL 33401
42. Craig Lichtblau, MD
550 Northlake Blvd.
West Palm Beach, FL
43. Alan Mandell, DC
Mandell Chiropractic Center
20334 NW 2nd Avenue
Miami, FL

44. Peggy Mullen
Palm Beach Orthopedic Associates
603 Village Blvd., Suite 300
West Palm Beach, FL
45. Amir Fleischer, Esq.
Marks & Fleischer
303 SW 6th St.
Ft. Lauderdale, FL 33315
46. Gary Marks, Esq.
Marks & Fleischer
303 SW 6th St.
Ft. Lauderdale, FL 33315
47. Richard Woulfe, Esq.
100 SE Third Avenue, Suite 900
Ft. Lauderdale, FL 33303
48. Diego Asenco, Esq.
636 US Highway 1, Suite 115
North Palm Beach, FL 33408
49. Michael Rosenberg, DO
Boca Orthopedic & Rehabilitation Center, Inc.
7015 Beracasa Way
Boca Raton, FL 33433
50. Alan Shaff, DC
4801 Linton Blvd., Suite 9A
Delray Beach, FL 33445
51. Gerald Stashak, MD
1411 N. Flagler Drive, Suite 8800
West Palm Beach, FL 33401

52. Michael Koonin MD; Stephen Wender MD; Barry Silverman MD
Silverman, Wender, Koonin, Epstein & Rozencwaig, PA f/k/a
Silverman, Wender, Koonin, Epstein, PA f/k/a
Silverman Seley Wender Koonin & Chaplin, PA d/b/a
Aventura Orthopedic Care Center
21000 NE 28th Avenue
North Miami Beach, FL
53. Dr. Joseph Lee
Elizabeth lee
Lee Chiropractic Clinic, Inc.
1920 S. 14th Street
Fernandina Beach, FL
54. Abrham K. Kohl, MD
d/b/a Kohl Chiropractic Clinic
10830 Pines Blvd.
Pembroke Pines, FL
55. Michael P. Newman, DC
Michael P. Newman, DC PA f/d/b/a
South Miami Medical Arts Center, Inc.
9420 SW 77th Avenue, Suite 100
Miami, FL
56. William Cox MD
W. Kevin Cox MD
William Bott MD
Jose Torres MD
Gilmer, Cos, Schwab & Bott Orthopaedic Association, PA
596 Ocoee Commerce Parkway
Ocoee, FL
57. Gregg Rosen MD
Family Chiropractic Health Center, Inc.
1716 W. Colonial Drive
Orlando, FL

58. Michael Feanny MD
Babak Sheikh MD
MA Hajlanpour
Total Orthopaedic Care PA
4850 W. Oakland Park Blvd., Suite 201
Lauderdale Lakes, FL
59. Peter-John Rhoden, Massage Therapist
Natural Healthcare Clinic, Inc.
2713 Andrews Avenue, #7
Wilton Manors, FL
60. Martin Monahan, DC
Bonnie Monahan, Physical Therapist Assistant
Clark Monahan DC
St. Augustine Physicians Associates, Inc.
419 Anastasia Blvd.
St. Augustine, FL
61. Kenneth Williams, DC
107 Baybridge Dr.
Gulf Breeze, FL
62. Warren Grossman MD
Richard Strain MD
Steven Steinlauf MD
Orthopaedic Associates of South Broward
1150 North 35th Avenue
Hollywood, FL
63. Jose Garcia DC
Jose Garcia DC PA
12323 Mustard St.
Orlando, FL

- 64. Ronald Drucker, DC
Broward Chiropractic Center
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Ft. Lauderdale, FL
- 65. David Seidner, DC
David Seidner PT DC d/b/a
Physical Therapy Associates of South Florida PA
9800 W. Atlantic Blvd.
Coral Springs, FL
- 66. Michael Minet, DC
Total Health and Rehab Center, Inc. f/k/a
Jamnett, Inc.
23057 State Road 7
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- 67. Edward Rivero, Physicians Assistant
2601 SW 37th Avenue
Miami, FL
- 68. Phillip Gager, DC d/b/a
Downstate Chiropractic Center, Inc.
4507 N. Pine Island Road
Sunrise, FL
- 69. Lloyd A. Wright, DC d/b/a
Lloyd Wright DC PA
801 W. Granada Blvd., Suite 301
Ormond Beach, FL
- 70. Andrew Wasserman DC f/d/b/a
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71. John P. Christensen DC
John P. Christensen PA MD DC
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West Palm Beach, FL
72. Douglas Kole DC d/b/a
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Tampa, FL
73. Daniel J. Pavlik DC
Access Healthcare, Inc.
2016 S. Orange Ave.
Orlando, FL
74. Alex Petro DC
Acropolis Chiropractic and Sports Medicine PA
4900 33rd Avenue North
St. Petersburg, FL
75. Harry Mikazans DC
Mary Tesic
Cathy Pichillo, Office Manager
Boca Medical Therapy, Inc.
470 SW 6th Ave.
Boca Raton, FL
76. Harry Brown DC
Nancy Brown
Chiromed Chiropractic Center, Inc.
750 Mt. Zion Road
Jonesboro, GA
77. Ralph E. Webb DC d/b/a
Chiropractic Center of 103rd Street
7628 103rd Street, Suite 22
Jacksonville, FL

78. Steven Warfield DC f/d/b/a
Lakewood Chiropractic Clinic PA
North Florida Healthcare, Inc.
1218 Park Avenue
Orange Park, FL
79. Darren Lastofsky DC f/d/b/a
Coral Springs Health and Wellness Center
2075 N. Powerline Road, Suite 4
Pompano Beach, FL
80. Paul M. Lombardi DC d/b/a
Cocoa Chiropractic Center
111 N. Fiske Blvd.
Cocoa, FL
81. David A. Mallory DC d/b/a
Neck, Back and Headache Relief Center
1033 S. Ridgewood Avenue
Daytona Beach, FL
82. Penemarie K. Murphy PT
Penemarie K. Murphy, Inc. d/b/a
Physical Therapy Services
7001 Merrill Road
Jacksonville, FL
83. Gregory Williams DC
Michele Zakrzewski Cert. DC Assistant
Medical & Chiropractic Clinic, Inc.
4601 N. Nebraska Avenue
Tampa, FL
84. Steven Gaeta DC d/b/a
Gaeta Chiropractic
2344 Bee Ridge Road, Suite 110
Sarasota, FL

85. Timothy E. Johnson DC d/b/a
Effective Pain Relief
4021 Central Avenue #C
St. Petersburg, FL
86. John Upchurch
125 S. Palmetto Avenue
Daytona Beach, FL
87. Richard Slawson, Esq.
Slawson Cunningham Whalen & Gaspari PI
2401 PGA Blvd., Suite 140
Palm Beach Gardens, FL
88. John Wilke, Esq.
7284 W. Palmetto Park Rd., Ste. 306
Boca Raton, FL 33433-3431
89. Doug Stein, Esq.
Seipp Flick & Hosley LLP
2 Alambra Plz. Ste. 800
Miami, FL 33134-5228
90. Doug Stein, Esq.
Seipp Flick & Hosley LLP
2 Alambra Plz. Ste. 800
Miami, FL 33134-5228
91. Chris L. Kirwan, Esq.
Kirwan Spellacy Danner, P.A.
200 S. Andrews.
Ft. Lauderdale, FL 33301
92. Judge Watson reserves the right to amend this Witness List to add the names
and address of additional witnesses not yet known, and whose identities may be
discovered prior to the close of discovery in this matter, as well as Expert and

Character witnesses.

WHEREFORE, pursuant to Fla. R. Civ. P. 1.090(b) and Rule 12 and 25, Rules of the JQC, Judge Laura M. Watson requests that the time to file affidavits to disqualify members of the Hearing Panel be enlarged until 15 days after the Hearing Panel discloses their personal relationships, professional associations, professional activities, Florida Bar activities, or business interests, with the list of witnesses identified above.

Respectfully submitted,

The Honorable Laura M. Watson
Circuit Judge, 17th Judicial Circuit
Room 1005B
201 SE 6th Street
Fort Lauderdale, Florida 33301
Tel.: (954) 831-6907
jwatson@17th.flcourts.org

/s/ Laura M. Watson
LAURA M. WATSON
Florida Bar No.: 476330

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by email to: Miles A. McGrane, III, Esq. miles@mcgranelaw.com
lisa@mcgranelaw.com The McGrane Law Firm, Special Counsel, One Datran

Center, Ste. 1500, 9100 South Dadeland Boulevard, Miami, Florida 333156; Lauri Waldman Ross, Esq. RossGirten@Laurilaw.com Counsel to the Hearing Panel of the JQC, Ste. 1612, 9100 South Dadeland Boulevard, Miami, Florida 333156; Michael L. Schneider, Esq. mschneider@floridajqc.com General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303, this 16th day of September, 2013.

Pursuant to FJQCR Rule 10(b) a copy is furnished by email to: The Honorable Kerry I. Evander, evanderk@flcourts.org, Chair of the JQC, 300 S. Beach Street, Daytona Beach, FL 32114.

/s/ Laura M. Watson
LAURA M. WATSON

EXHIBIT C

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA A. WATSON

SC13-1333

MOTION TO QUASH DEPOSITION SUBPOENA DUCES TECUM
AND FOR PROTECTIVE ORDER

The Florida Bar and Bar Counsel, Ghenete Wright Muir, through undersigned counsel, and pursuant to Fla. R. Civ. Pr. 1.280(c) and Fla. R. Civ. Pr. 1.410(c) hereby move for the entry of a protective order preventing the deposition of Bar Counsel Ghenete Wright Muir and quashing Respondent's deposition subpoena *duces tecum* on Ms. Wright Muir, and in support thereof, state as follows:

I. INTRODUCTION AND BACKGROUND

1. Prior to this case being prosecuted by the Judicial Qualifications Commission, The Florida Bar initiated disciplinary proceedings against Respondent.

2. Ghenete Wright Muir is Bar Counsel for the Fort Lauderdale Branch of The Florida Bar and represented The Florida Bar in the disciplinary proceedings against the Respondent, Case Number 2008-51,564(17B).

3. In her capacity as Bar Counsel, Ms. Wright Muir provided counsel to the Seventeenth Judicial Circuit Grievance Committee "B" (the "Grievance Committee") during the time the Grievance Committee rendered a probable cause finding against Respondent on October 19, 2012.

4. After the finding of probable cause by the Grievance Committee, Respondent was elected to the Circuit Court of the Seventeenth Judicial Circuit.

5. The Florida Bar disciplinary proceeding pending against Respondent was placed on a monitor status and remains so, so long as Respondent serves on the bench. *See* Affidavit of Ms. Wright Muir and attached hereto as Exhibit A.

6. Subsequent to the Respondent assuming her responsibilities as a circuit judge, the Judicial Qualifications Commission initiated disciplinary proceedings against Respondent and filed formal charges.

7. The Florida Bar provided the JQC the same materials that have also been provided to Respondent. Ms. Wright Muir has had no involvement in the instant JQC investigation or disciplinary proceedings. *See* Exhibit A.

8. A Subpoena for Videotaped Deposition of Non-Party, issued by Robert A. Sweetapple, co-counsel for Respondent Judge Watson, was served on Ms. Wright Muir, requiring her to appear for deposition on December 5, 2013, at 1:00 p.m., to give testimony and produce records relating to The Florida Bar's investigation of Judge Watson. A copy of the Subpoena Duces Tecum with list of "Documents Requested" is attached as Exhibit B.

9. The Subpoena required Ms. Wright Muir to produce, among other records, confidential records of The Florida Bar pertaining to or mentioning various "interested parties," including, "any member of the JQC" and members of The Florida

Bar Grievance Committee that found probable cause for disciplinary charges against Judge Watson. *See* Exhibit B.

10. Counsel for Judge Watson agreed to cancel the deposition date of December 5, 2013 upon the undersigned's agreement to produce all non-privileged records requested by the Subpoena to Respondent and a privilege log indicating those documents which The Florida Bar maintains are privileged and confidential.

11. To date, The Florida Bar has provided Respondent over 3,000 pages of documents.¹

12. Despite production of these documents, Respondent has renewed her efforts to depose Ms. Wright Muir on January 16, 2014. *See* Exhibit C.

13. Any and all information Ms. Wright Muir has relating to Respondent was obtained in connection with her representation of The Florida Bar in disciplinary proceedings against Respondent. *See* Exhibit A.

14. Ms. Wright Muir has no knowledge of what information was reviewed by the probable cause panel of the JQC. *See* Exhibit A.

15. Other than the materials already produced, any information and documents Ms. Wright Muir has regarding the Bar's investigation and the Grievance Committee's finding of probable cause is (1) confidential and prohibited from

¹ The Florida Bar has also provided Respondent with a privilege log identifying those documents The Florida Bar asserts are confidential and privileged.

disclosure, pursuant to Rule 3-7.1 of the Rules Regulating The Florida Bar; (2) beyond the scope of permissible discovery and will not lead to the discovery of admissible evidence; and (3) protected under the attorney-client privilege and work-product doctrine.

II. THE SUBPOENA DUCES TECUM SHOULD BE QUASHED AND A PROTECTIVE ORDER ENTERED

A witness to whom a subpoena is directed has standing to question the subpoena. *State Dep't of Highway Safety & Motor Vehicles v. State Career Serv. Comm'n*, 322 So. 2d 64 (Fla. 1st DCA 1975); *Kridos v. Vinskus*, 483 So. 2d 727 (Fla. 4th DCA 1985).

A. The Subpoena Duces Tecum should be quashed because it is oppressive and unduly burdensome

Pursuant to Fla. R. Civ. P. 1.40(c), a subpoena may be quashed “upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith . . . if it is unreasonable and oppressive.” The Florida Bar has already provided Respondent with copies of all non-privileged documents related to Respondent’s Florida Bar disciplinary matter. *See* Exhibit D. As such, the Subpoena is oppressive in that it seeks to subject Bar Counsel to a discovery deposition – for matters that are not relevant to the proceedings currently pending before this Commission.

B. Respondent seeks discovery that is not relevant

Even if Ms. Wright Muir’s testimony was not prohibited by the Rules Regulating the Florida Bar, she has no information relevant to the instant matter. Florida Rule of Civil Procedure 1.280(b)(1) provides that a party may obtain discovery regarding any matter that is “relevant to the subject matter of the pending action.” The information sought must be relevant to some issue in the action in which discovery is sought. It is proper to quash a subpoena served upon a witness bears “no legal pertinence whatever to the issues in the case and thus could not be of any potential assistance” *State v. Mesa*, 396 So. 2d 242 (Fla. 3d DCA 1981); *Doe v. State*, 262 So.2d 11 (Fla. 3d DCA 1972)) (emphasis added).

Bar Counsel has absolutely no non-privileged information regarding this matter that would in any way be relevant at the upcoming JQC hearing against Respondent and which has not already been provided to Respondent. Unless Respondent can affirmatively show that Bar Counsel has any non-privileged records or information with any legal pertinence whatsoever to the issues in the case, the subpoena related to Ms. Wright Muir must be quashed and a protective order prohibiting her deposition must be entered.

C. **Respondent's Proposed Deposition is prohibited by Rule 3-7.1 of the Rules Regulating the Florida Bar**

The scope of confidentiality for records and proceedings of The Florida Bar is specifically set forth in R. Reg. Fla. Bar 3-7.1. Rule 3-7.1 creates a confidential protection for records and proceedings of The Florida Bar:

Scope of Confidentiality. All matters including files, preliminary investigation reports, interoffice memoranda, records of investigations, and the records in trials and other proceedings under these rules...are property of The Florida Bar. ***All of those matters shall be confidential*** and shall not be disclosed except as provided herein. When disclosure is permitted under these rules, it shall be limited to information concerning the status of the proceedings and any information that is part of the public record...[emphasis added]

R. Reg. Fla. Bar 3-7.1.

The protection afforded by this Rule extends to communications with employees of The Florida Bar, the Grievance Committee, the Disciplinary Review Committee and the Board of Governors.

The sum total of Ms. Wright Muir's knowledge about this matter is related to her investigation of Respondent in the Bar disciplinary proceedings and therefore, with the limited exception of her personal background information, any testimony by Ms. Wright Muir related to this matter is prohibited by, among other privileges or immunities, the confidentiality requirements of Rule 3-7.1 of the Rules Regulating the Florida Bar.

D. Respondent seeks discovery that is protected by the attorney-client privilege

Ms. Wright Muir shared the results of her investigation of Respondent with the Seventeenth Judicial Circuit Grievance Committee “B” in The Florida Bar Case Number 2008-51,564. *See* Exhibit A. Respondent is not entitled to inquire about any communications between the Grievance Committee and Bar Counsel as those communications were made in connection with the rendition of legal services and accordingly, the attorney-client privilege protects disclosure of such confidential communications. *See* R. Reg. Fla. Bar 3-7.1.; Fla. Stat. §90.502.

E. Respondent seeks information that is protected by the work-product doctrine

Furthermore, the information which Respondent seeks is protected work-product material as it was material prepared in anticipation of litigation. The work-product privilege is designed to protect the work and mental impressions of counsel under the circumstances and is controlled by Florida Rule of Civil Procedure 1.280(b)(4). This privilege protects documents and papers of an attorney or a party prepared in anticipation of litigation regardless of whether they pertain to confidential conversations between attorney and client. *Southern Bell Tel. & Tel. Co. v. Deason*, 632 So. 2d 1377 (Fla. 1994).

Before a party can obtain discovery of work-product material, it must show that it “has the need to the materials in the preparation of the case and is unable

without undue hardship to obtain the substantial equivalent of the materials by other means.” *Prudential Ins. Co. of America v. Florida Dept. of Ins.*, 694 So.2d 772 (Fla. 2d DCA 1997) citing Fla. R. Civ. P. 1.280.

In order to show “need,” the party seeking discovery must show that the documents sought are relevant to the substantive issues or to the credibility of witnesses. Unless the materials are relevant, it is difficult to show that the documents are necessary to help the moving party prepare the case. Charles W. Ehrhardt, 1 Florida Practice, Evidence § 502.9 (2013 ed.).

It is incumbent upon Respondent to demonstrate that Ms. Wright Muir’s knowledge and information is relevant to the issues in the instant matter.

III. STANDARD FOR ISSUING A PROTECTIVE ORDER

Florida Rule of Civil Procedure 1.280(c) states that “for good cause shown, the court in which the action is pending may make an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires.” Courts have many options in protecting parties from impermissible discovery, including the entry of an order (i) that discovery may be had only on specific terms and conditions, and/or (ii) that certain matters not be inquired into, or that the scope of discovery be limited to certain matters. Fla. R. Civ. P. 1.280(c). The trial court possesses broad discretion in the treatment of discovery problems through the employment of protective orders contemplated by

Rule 1.280. *Waite v. Wellington Boats, Inc.*, 459 So. 2d 425, 426 (Fla. 1st DCA 1984); *see also Towers v. City of Longwood*, 960 So. 2d 845, 848 (Fla. 5th DCA 2007).

In deciding whether a protective order is appropriate in a particular case, the court must balance the competing interests that would be served by granting discovery or by denying it. *Rasmussen v. South Fla. Blood Serv.*, 500 So.2d 533, 535 (Fla. 1987). Respondent is seeking confidential records of The Florida Bar. Respondent is improperly seeking to depose Bar Counsel regarding matters specifically deemed confidential under the Rules regulating the Florida Bar.

The interest of The Florida Bar and Bar Counsel in protecting confidentiality under these rules clearly outweighs any interest Respondent may have in obtaining the discovery being sought.

IV. GOOD CAUSE EXISTS FOR A PROTECTIVE ORDER

The deposition of Ghenete Wright Muir is not reasonably calculated to lead to the discovery of relevant, non-privileged evidence regarding any of the issues in this matter and for the reasons outlined above, good cause exists to issue a protective order and limit discovery in this matter.

WHEREFORE, The Florida Bar respectfully requests that this Commission enter an order quashing the Subpoena Duces Tecum and prohibiting Respondent from deposing Ghenete Wright Muir, and protecting Ghenete Wright Muir from

any requirement to appear for deposition unless and until this Commission concludes, based on evidence presented by the Respondent, that Ghenete Wright Muir possesses personal knowledge of information that is relevant to Respondent's claim or that Respondent has satisfied the requisite burden to obtain fact work-product together with such other relief as the Commission considers appropriate.

Respectfully submitted,

BEDELL, DITTMAR, DeVAULT, PILLANS & COXE
Professional Association

By: /s/ Henry M. Coxe, III
Henry M. Coxe, III
Florida Bar No. 0155193
E-mail: hmc@bedellfirm.com
101 East Adams Street
Jacksonville, Florida 32202
Telephone: (904) 353-0211
Facsimile: (904) 353-9307

and

McGUIRE WOODS LLP

By: /s/Melissa W. Nelson
Melissa W. Nelson
Florida Bar No. 0132853
E-mail: mnelson@mcguirewoods.com
50 N. Laura Street, Suite 3300
Jacksonville, FL 32202
Telephone: (904) 798-3200
Facsimile: (904) 798-3207

Attorneys for The Florida Bar

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 14, 2014, a true and correct copy of the foregoing was furnished by electronic mail to:

Miles A. McGrane, III, Esquire
The McGrane Law Firm
Special Counsel
One Datan Center, Suite 1500
9100 South Dadeland Boulevard
Miami, FL 33156
miles@mcgranelaw.com

Lauri Waldman Ross, Esquire
Counsel to the Hearing Panel of the JQC
Suite 1612
9100 South Dadeland Boulevard
Miami, FL 33156
rossgirtten@laurilaw.com

Michael L. Schneider, Esquire
General Counsel
1110 Thomasville Road
Tallahassee, FL 32303
Mschneider@floridajqc.com

The Honorable Laura M. Watson
Circuit Judge, 17th Judicial Circuit
Room 1005B
201 SE 6th Street
Fort Lauderdale, FL 33301
jwatson@17th.flcourts.org

Robert Sweetapple, Esquire
20 SE Third Street
Boca Raton, FL 33432
pleadings@sweetapplelaw.com

/s/Henry M. Cox, III
Attorney

Exhibit A

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA A. WATSON

SC13-1333

AFFIDAVIT OF GHENETE WRIGHT MUIR

1. My name is Ghenete Wright Muir. I am over eighteen years of age and competent to make this affidavit.

2. I am employed by the Florida Bar as Bar Counsel for the Fort Lauderdale Branch of The Florida Bar.

3. I represented The Florida Bar in the disciplinary proceedings against the Respondent, Laura Watson, prior to the current Judicial Qualifications Commission ("JQC") proceedings pending against Respondent.

4. In my capacity as Bar counsel, I provided counsel to the Seventeenth Judicial Circuit Grievance Committee "B" (the "Grievance Committee") at the time a probable cause finding was found in The Florida Bar Case Number 2008-51,564 (17B) against Respondent.

5. Subsequent to the finding of probable cause by the Grievance Committee, Respondent was elected to the Circuit Bench in the Seventeenth Circuit and the Bar disciplinary proceedings pending against Respondent were placed on monitor status.

6. I understand that the JQC initiated disciplinary proceedings against Respondent.

7. I had no involvement in the instant JQC investigation or disciplinary proceedings.

8. In October, 2013 I received a copy of a letter from counsel for Respondent requesting that I contact his office to coordinate dates for deposition. I contacted counsel's office and left a message. Counsel for Respondent did not return my message.

9. I was served with a Subpoena for Videotaped Deposition of Non-Party, issued by Robert A. Sweetapple, requiring me to appear for deposition on December 5, 2013, at 1:00 p.m., and again for deposition on January 16, 2014, to give testimony and produce records relating to The Florida Bar's investigation of Judge Watson.

10. The Subpoena Duces Tecum requires me to produce records of The Florida Bar pertaining to or mentioning various "interested parties," including, "any member of the JQC" and members of The Florida Bar Grievance Committee that found probable cause for disciplinary charges against Judge Watson.

11. These records are confidential pursuant to the Rules Regulating The Florida Bar.

12. All information I have relating to Respondent was obtained in connection with my representation of The Florida Bar in disciplinary proceedings against Respondent.

13. I do not have any knowledge relevant to the JQC's pending prosecution against Respondent.

FURTHER AFFIANT SAYETH NAUGHT.

Executed on: January 13, 2014




GHENETE WRIGHT MUIR, Affiant

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

Sworn to (or affirmed) and subscribed before me this 13 day of January, 2014 by Ghenete Wright Muir, who is X personally known to me or presented identification and has acknowledged under oath that the above statements are true

(SEAL)

NOTARY PUBLIC-STATE OF FLORIDA
 Cheryl L. Soler
Commission #DD986010
Expires: APR. 26, 2014
BONDED THRU ATLANTIC BONDING CO., INC.



Notary Public-State of Florida

Exhibit B

RECEIVED

2464

NOV 15 2013 BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

THE FLORIDA BAR
FORT LAUDERDALE OFFICE

SCI3-1333

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA M. WATSON

DATE: 11-15-13 TIME: 2:10 AM/PM
SERVED: Public Perspective
CAPACITY: Public Agent
SERVER: RA PS# 1244

SUBPOENA FOR VIDEOTAPED DEPOSITION DUCES TECUM OF NON-PARTY

To: Ghenete Wright Muir, Esquire
The Florida Bar
1300 Concord Terrace, Suite 130
Sunrise, Florida 33323

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the office of United Reporting, Inc. 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), on Thursday, December 5, 2013, at 1:00 p.m., before United Reporting, Inc., Notary Public, State of Florida at Large, or any other officer authorized by law for the taking of your videotaped deposition.

If you fail to:

- 1) appear as specified; or
- 2) object to this subpoena,

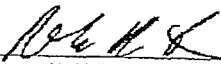
you may be in contempt of court. You are subpoenaed by the attorney whose name appears on this subpoena and unless excused from this subpoena by the attorney or the Court, you shall respond to this subpoena as directed.

DATED on November 15, 2013

LAW OFFICES OF SWEETAPPLE, BROEGER & VARKAS, P.L.L.C.
165 EAST BOCA RATON ROAD, BOCA RATON, FLORIDA 33432-3911

Inquiry Concerning a Judge No. 12-613, Laura M. Watson
SC13-1333; Supreme Court of Florida

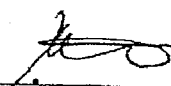
FOR THE COURT
SWEETAPPLE, BROEKER & VARKAS
Co-counsel for Judge Watson
165 East Boca Raton Road
Boca Raton, Florida 33432-3911
Telephone: (561) 392-1230
Email: Pleadings@sweetapplelaw.com

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12th day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17th Judicial Circuit, Room 1005B, 201 SE 6th Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datrian Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridajqc.com; bkennerly@floridajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry L. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA M. WATSON

**NOTICE OF TAKING VIDEOTAPED DEPOSITION DUCES TECUM OF NON-
PARTY**

PLEASE TAKE NOTICE that the undersigned attorney will take the videotaped deposition of the below named person at United Reporting, Inc., 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), upon oral examination before United Reporting, Inc., Notary Public or officer authorized by law to take depositions in the State of Florida.

Name: Ghenete Wright Muir, Esquire

Date: Thursday, December 5, 2013

Time: 1:00 p.m.

The oral examination will continue from day to day until completed. The deposition is being taken pursuant to the Rules of Civil Procedure.

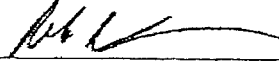
Deponent is directed to bring with her the documents outlined in Schedule "A" attached hereto.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding shall contact the undersigned attorney at (561) 392-1230 no later than seven days prior to the proceedings; for hearing impaired, telephone 1-800-955-8771 (TDD), via Florida Relay Service.

LAW OFFICES OF SWEETAPPLE, BROEKER & VARKAS, P.L.
165 EAST BOCA RATON ROAD, BOCA RATON, FLORIDA 33432-3911

Inquiry Concerning a Judge No. 12-613, Laura M. Watson
SC13-1333; Supreme Court of Florida

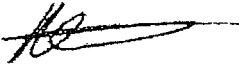
SWEETAPPLE, BROEKER & VARKAS, PL
Co-counsel for Judge Watson
165 East Boca Raton Road
Boca Raton, Florida 33432-3911
Telephone: (561) 392-1230
Email: Pleadings@sweetapplelaw.com

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12th day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17th Judicial Circuit, Room 1005B, 201 SE 6th Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datan Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridaajqc.com; bkennerly@floridaajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry L. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

**JUDGE LAURA M. WATSON'S SCHEDULE "A" TO VIDEO SUBPOENA DUCES
TECUM**

DEFINITIONS AND INSTRUCTIONS

1. "Documents" means any tangible thing, recording or reproduction in any manner, any visual or auditory data in your possession, including without limiting the generality of its meaning, correspondence, memoranda, transcripts, stenographic or handwritten notes, telegrams or telexes, letters, reports, graphs or charts, ledgers, invoices, diaries or calendars, minute books, meeting minutes, computer print-outs, prospectuses, financial statements, annual, quarterly or other filings with any governmental agency or department, annual reports (including schedules thereto), statistical studies, articles appearing in publications, press releases, video or audio tapes, computer data bases, hard drives, storage tapes or disks, all e-mail data, and any papers on which words have been written, printed, typed or otherwise affixed, and shall mean every copy of every document where such copy is not an identical copy of an original (whether different from the original by reason of any notation made on such copy or any other reason).

2. The term "correspondence" refers to any "documents" as that term is defined above, that have been exchanged from one person or entity to another person or entity or which were intended to be exchanged or prepared in order to be so communicated from one person or entity to another, whether or not such correspondence was actually exchanged, mailed or posted.

3. To the extent not clarified above, this request for production specifically includes "electronic communications" which includes electronic mail messages (e-mail), text messages, and other electronic communications, which may or may not be reduced to hard copy in the normal

course of business and which may be stored or archived on file servers, hard or floppy disks or diskettes, back-up tapes, or other storage media.

4. If any of these documents cannot be produced in full, produce them to the extent possible, specifying your reasons for your inability to produce the remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion.

5. As used herein, the words "pertain(s) to" or "mentions" shall mean: relates to, refers to, contains, concerns, describes, mentions, constitutes, supports, corroborates, demonstrates, proves, evidence, refutes, disputes, rebuts, controverts and/or contradicts.

6. Judge Laura M. Watson's Exhibit List is attached as **Exhibit "A"**.

7. Pursuant to Florida Rules of Civil Procedure 1.280(5), regarding **claims of privilege**, for each document responsive to these requests which is withheld under any claim of attorney-client privilege or work product privilege, provide a statement by a person having knowledge setting forth as to each document:

- (a) Name and title of the author(s);
- (b) The name and title of each person to whom the document was addressed;
- (c) The name and title of each person to whom a copy of the document was sent;
- (d) The date of the document;
- (e) The number of pages;
- (f) A brief description of the nature and subject matter of the document;
- (g) The nature of the claimed privilege;
- (h) The category or categories of this request to which the document is responsive; and

- (i) The exact location of the original and each copy as of the date of the receipt of this request.

Pursuant to rule a "the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection." Florida Rules of Civil Procedure 1.280(5).

8. The term "interested persons" means the following individuals:

- All persons listed on Judge Laura M. Watson's Exhibit List attached as Exhibit "A" or any of their employees or associates.
- Miles A. McGrane, III or any person who is employed by or a partner at The McGrane Law firm.
- Any member of the JQC, i.e., Ricardo Morales, III, Hon. Kerry I. Evander, Alan B. Bookman, Shirlee P. Bowne, Michelle K. Cummings, Mayanne Downs, Harry R. Duncanson, Hon. Thomas B. Freeman, Hon. Krista Marx, Steven R. Maxwell, Hon. Michelle T. Morley, Hon. Robert Morris, Jerome S. Osteryoung, Hon. James A. Ruth, John G. White, III, Brooke S. Kennerly, Michael L. Schneider, including retirees, i.e., Preston Silvermail and Paul Backman.
- Any partner at the firm of Klein Glasser Park Lowe & Pelstring, PL, Mark J. Sullivan, Esq. or any person who is employed by or a partner at that firm.
- Lauri Waldman Ross or any person who is employed by or is a partner at the firm Ross & Girten.

9. The term **"Insurance Companies"** means: Allstate Insurance Company; United Automobile Insurance; USAA Insurance Company; GEICO; Progressive Insurance; State Farm Insurance; Liberty Mutual; First Mercury Insurance and any of these insurance companies' subsidiaries or affiliates.
10. **"Attorney's Fees Litigation"** means the lawsuit which was brought in the 15th Judicial Circuit in Palm Beach County, Florida, in the case of Stewart, Tilghman, Fox and Bianchi P.A., William C. Hearon, P.A., and Todd S. Stewart, P.A., versus Kane and Kane, Laura M. Watson, P.A. et al., Case No. 502004 CA 006138 XXXX MBO.
11. **"Grievance Complaint"** means the 2008 Grievance Complaint filed by Larry Stewart and William Hearon or any other person with the Florida Bar against Laura M. Watson and/or Laura M. Watson, P.A. which **"pertain(s) to"** or **"mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012.
12. The **"Stewart Law Firm"** means the law firm of Stewart, Tilghman, Fox and Bianchi P.A. or any of the firm's associates or employees.
13. The **"Hearon Law Firm"** means the law firm of William C. Hearon, P.A. or any of the firm's associates or employees.
14. The **"Todd S. Stewart Law Firm"** means the law firm of Todd S. Stewart, P.A. or any other subsequent name changes or new law firms wherein Todd S. Stewart, Esq. is a partner or associate.
15. Unless otherwise specified, all time frames shall be from 1/1/2008 to date of production.

DOCUMENTS REQUESTED

1. A copy of the Complaint and your complete file which "pertain(s) to" or "mentions" Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012. This request includes all affidavits of witnesses in the Florida Bar's possession at the time of the probable cause finding and any and all "documents" which were provided to the "interested persons".
2. Any and all "documents" as defined above, between any you or any other Florida Bar Grievance Committee member or "interested persons" as defined above, that "pertain(s) to" or "mentions" Laura Watson from 2008 through the date of production.
3. Any "documents" "correspondence" or "electronic communications" that "pertain(s) to" or "mentions" Laura Watson or Laura M. Watson d/b/a Watson and Lentner between the Florida Bar and the Florida JQC member identified above from May 1, 2012 through the present.
4. Copies of any "documents" "correspondence" or "electronic communications" between you and any "interested persons" as defined above regarding the prospects for your personal employment.
5. A copy of transcripts of testimony of witnesses or affidavits which "pertain(s) to" or "mentions" Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause by the Florida Bar in October 2012.
6. A copy of all meeting minutes, meeting books, stenographic or handwritten notes which "pertain(s) to" or "mentions" Laura M. Watson which reflects the votes of the Bar Grievance Committee individually on each and every numbered allegation in the probable cause finding.

Inquiry Concerning a Judge No. 12-613, Laura M. Watson
SC13-1333; Supreme Court of Florida

7. Phone records which reflect conversations with any of the "interested persons" from 1/1/2008 to the date of production.
8. All Complaints of "interested persons" in the Florida Bar's possession at the time of the probable cause hearing.

RECEIVED, 9/16/2013 17:23:44, Thomas D. Hall, Clerk, Supreme Court

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING A JUDGE No. 12-613

LAURA M. WATSON

**JUDGE LAURA M. WATSON'S NOTICE OF FILING PRELIMINARY
WITNESS LIST PURSUANT TO ORDER ON STATUS CONFERENCE
AND MOTION FOR ENLARGEMENT OF TIME TO FILE RULE 25
AFFIDAVITS TO DISQUALIFY MEMBERS OF THE HEARING PANEL
AND DEMAND FOR DISCLOSURES**

Pursuant to the August 26, 2013 Order on status Conference, Judge Watson serves her preliminary witness list below. Pursuant to Fla. R. Civ. P. 1.090(b) and Rule 12 and 25, Rules of the JQC, Judge Laura M. Watson requests that the time to file affidavits to disqualify members of the Hearing Panel be enlarged until 15 days after the Hearing Panel discloses their personal relationships, professional associations, professional activities, Florida Bar activities, or business interests, with the list of witnesses in this cause.

**WITNESSES WHOSE TESTIMONY IS EXPECTED TO BE OFFERED AT
THE FINAL HEARING**

1. Any and all witnesses list by the JQC.

2. Chris Searcy, Esq.
Searcy Denny Scarola Barnhart & Shipley P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
3. John Shipley, Esq.
Searcy Denny Scarola Barnhart & Shipley P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
4. Jack Scarola, Esq.
Searcy Denny Scarola Barnhart & Shipley P.A.
2139 Palm Beach Lakes Boulevard
West Palm Beach, FL 33409
5. Larry S. Stewart, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
6. Gary D. Fox, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131
7. David W. Bianchi, Esq.
Stewart Tilghman Fox Bianchi, P.A.
1 S.E. Third Avenue, Ste. 3000
Miami, FL 33131

8. James B. Tilghman, Esq.
Stewart Tilghman Fox Bianchi, P.A.
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11. Todd S. Stewart, Esq.
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Jupiter, FL 33458-7566
12. Gerald Stashak, M.D.
Gerald Stashak M.D.
1411 N. Flagler Drive
West Palm Beach, FL 33401
13. The Honorable David Franklin Crow
Circuit Court, 15th Judicial Circuit
West Palm Beach, FL 33401
14. Rutledge R. Liles, Esq.
Liles Gavin & George, P.A.
225 Water Street, Ste. 1500
Jacksonville, FL 32202-5145

15. J. Michael Burman, Esq.
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515 N. Flagler Drive, Suite 400
West Palm Beach, FL 33401
16. Richard Parrillo, Jr.
United Automobile Insurance Company
3909 N.E. 163 Street, #304
North Miami, FL 33160
17. Jennifer C. Erdelyi, Esq.
Colondy, Fass, Talenfeld, Karlinsky & Abbate, P.A.
100 SE 3rd Ave.
Ft. Lauderdale, FL 33394
18. Maurice Abate, Esq.
Colondy, Fass, Talenfeld, Karlinsky & Abbate, P.A.
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19. Herb Stettin, Esq.
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Anania, Bandklayer Blackwell Baumbarten & Tornicella
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24. Elizabeth Walker Finizio, Esq.
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35. John R. Beranek, Esq.
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39. Debra Shaeffer Bilodeau
Total Orthopedic Care
4850 W. Oakland Park Blvd., Suite 201
Lauderdale Lakes, FL
40. Steven Cimerberg, DO
10063 Cleary Blvd.
Plantation, FL 33424
41. Eric Fishman, MD
Eric Fishman MD PA
1411 N. Flagler Drive
West Palm Beach, FL 33401
42. Craig Lichtblau, MD
550 Northlake Blvd.
West Palm Beach, FL
43. Alan Mandell, DC
Mandell Chiropractic Center
20334 NW 2nd Avenue
Miami, FL

44. Peggy Mullen
Palm Beach Orthopedic Associates
603 Village Blvd., Suite 300
West Palm Beach, FL
45. Amir Fleischer, Esq.
Marks & Fleischer
303 SW 6th St.
Ft. Lauderdale, FL 33315
46. Gary Marks, Esq.
Marks & Fleischer
303 SW 6th St.
Ft. Lauderdale, FL 33315
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100 SE Third Avenue, Suite 900
Ft. Lauderdale, FL 33303
48. Diego Asenco, Esq.
636 US Highway 1, Suite 115
North Palm Beach, FL 33408
49. Michael Rosenberg, DO
Boca Orthopedic & Rehabilitation Center, Inc.
7015 Beracasa Way
Boca Raton, FL 33433
50. Alan Shaff, DC
4801 Linton Blvd., Suite 9A
Delray Beach, FL 33445
51. Gerald Stashak, MD
1411 N. Flagler Drive, Suite 8800
West Palm Beach, FL 33401

52. Michael Koonin MD; Stephen Wender MD; Barry Silverman MD
Silverman, Wender, Koonin, Epstein & Rozencwaig, PA f/k/a
Silverman, Wender, Koonin, Epstein, PA f/k/a
Silverman Seley Wender Koonin & Chaplin, PA d/b/a
Aventura Orthopedic Care Center
21000 NE 28th Avenue
North Miami Beach, FL
53. Dr. Joseph Lee
Elizabeth lee
Lee Chiropractic Clinic, Inc.
1920 S. 14th Street
Fernandina Beach, FL
54. Abrrham K. Kohl, MD
d/b/a Kohl Chiropractic Clinic
10830 Pines Blvd.
Pembroke Pines, FL
55. Michael P. Newman, DC
Michael P. Newman, DC PA f/d/b/a
South Miami Medical Arts Center, Inc.
9420 SW 77th Avenue, Suite 100
Miami, FL
56. William Cox MD
W. Kevin Cox MD
William Bott MD
Jose Torres MD
Gilmer, Cos, Schwab & Bott Orthopaedic Association, PA
596 Ocoee Commerce Parkway
Ocoee, FL
57. Gregg Rosen MD
Family Chiropractic Health Center, Inc.
1716 W. Colonial Drive
Orlando, FL

58. Michael Feanny MD
Babak Sheikh MD
MA Hajlanpour
Total Orthopaedic Care PA
4850 W. Oakland Park Blvd., Suite 201
Lauderdale Lakes, FL
59. Peter-John Rhoden, Massage Therapist
Natural Healthcare Clinic, Inc.
2713 Andrews Avenue, #7
Wilton Manors, FL
60. Martin Monahan, DC
Bonnie Monahan, Physical Therapist Assistant
Clark Monahan DC
St. Augustine Physicians Associates, Inc.
419 Anastasia Blvd.
St. Augustine, FL
61. Kenneth Williams, DC
107 Baybridge Dr.
Gulf Breeze, FL
62. Warren Grossman MD
Richard Strain MD
Steven Steinlauf MD
Orthopaedic Associates of South Broward
1150 North 35th Avenue
Hollywood, FL
63. Jose Garcia DC
Jose Garcia DC PA
12323 Mustard St.
Orlando, FL

64. Ronald Drucker, DC
Broward Chiropractic Center
3194 W. Commercial Blvd.
Ft. Lauderdale, FL
65. David Seidner, DC
David Seidner PT DC d/b/a
Physical Therapy Associates of South Florida PA
9800 W. Atlantic Blvd.
Coral Springs, FL
66. Michael Minet, DC
Total Health and Rehab Center, Inc. f/k/a
Jamnett, Inc.
23057 State Road 7
Boca Raton, FL
67. Edward Rivero, Physicians Assistant
2601 SW 37th Avenue
Miami, FL
68. Phillip Gager, DC d/b/a
Downstate Chiropractic Center, Inc.
4507 N. Pine Island Road
Sunrise, FL
69. Lloyd A. Wright, DC d/b/a
Lloyd Wright DC PA
801 W. Granada Blvd., Suite 301
Ormond Beach, FL
70. Andrew Wasserman DC f/d/b/a
Wasserman Chiropractic Clinic
10394 W. Sample Road
Coral Springs, FL

71. John P. Christensen DC
John P. Christensen PA MD DC
3001 Broadway
West Palm Beach, FL
72. Douglas Kole DC d/b/a
Kole Chiropractic Center PA
3220 Cove Bend Drive
Tampa, FL
73. Daniel J. Pavlik DC
Access Healthcare, Inc.
2016 S. Orange Ave.
Orlando, FL
74. Alex Petro DC
Acropolis Chiropractic and Sports Medicine PA
4900 33rd Avenue North
St. Petersburg, FL
75. Harry Mikazans DC
Mary Tesic
Cathy Pichillo, Office Manager
Boca Medical Therapy, Inc.
470 SW 6th Ave.
Boca Raton, FL
76. Harry Brown DC
Nancy Brown
Chiromed Chiropractic Center, Inc.
750 Mt. Zion Road
Jonesboro, GA
77. Ralph E. Webb DC d/b/a
Chiropractic Center of 103rd Street
7628 103rd Street, Suite 22
Jacksonville, FL

78. Steven Warfield DC f/d/b/a
Lakewood Chiropractic Clinic PA
North Florida Healthcare, Inc.
1218 Park Avenue
Orange Park, FL
79. Darren Lastofsky DC f/d/b/a
Coral Springs Health and Wellness Center
2075 N. Powerline Road, Suite 4
Pompano Beach, FL
80. Paul M. Lombardi DC d/b/a
Cocoa Chiropractic Center
111 N. Fiske Blvd.
Cocoa, FL
81. David A. Mallory DC d/b/a
Neck, Back and Headache Relief Center
1033 S. Ridgewood Avenue
Daytona Beach, FL
82. Penemarie K. Murphy PT
Penemarie K. Murphy, Inc. d/b/a
Physical Therapy Services
7001 Merrill Road
Jacksonville, FL
83. Gregory Williams DC
Michele Zakrzewski Cert. DC Assistant
Medical & Chiropractic Clinic, Inc.
4601 N. Nebraska Avenue
Tampa, FL
84. Steven Gaeta DC d/b/a
Gaeta Chiropractic
2344 Bee Ridge Road, Suite 110
Sarasota, FL

85. Timothy E. Johnson DC d/b/a
Effective Pain Relief
4021 Central Avenue #C
St. Petersburg, FL
86. John Upchurch
125 S. Palmetto Avenue
Daytona Beach, FL
87. Richard Slawson, Esq.
Slawson Cunningham Whalen & Gaspari PI
2401 PGA Blvd., Suite 140
Palm Beach Gardens, FL
88. John Wilke, Esq.
7284 W. Palmetto Park Rd., Ste. 306
Boca Raton, FL 33433-3431
89. Doug Stein, Esq.
Seipp Flick & Hosley LLP
2 Alambra Plz. Ste. 800
Miami, FL 33134-5228
90. Doug Stein, Esq.
Seipp Flick & Hosley LLP
2 Alambra Plz. Ste. 800
Miami, FL 33134-5228
91. Chris L. Kirwan, Esq.
Kirwan Spellacy Danner, P.A.
200 S. Andrews.
Ft. Lauderdale, FL 33301
92. Judge Watson reserves the right to amend this Witness List to add the names
and address of additional witnesses not yet known, and whose identities may be
discovered prior to the close of discovery in this matter, as well as Expert and

Character witnesses.

WHEREFORE, pursuant to Fla. R. Civ. P. 1.090(b) and Rule 12 and 25, Rules of the JQC, Judge Laura M. Watson requests that the time to file affidavits to disqualify members of the Hearing Panel be enlarged until 15 days after the Hearing Panel discloses their personal relationships, professional associations, professional activities, Florida Bar activities, or business interests, with the list of witnesses identified above.

Respectfully submitted,

The Honorable Laura M. Watson
Circuit Judge, 17th Judicial Circuit
Room 1005B
201 SE 6th Street
Fort Lauderdale, Florida 33301
Tel.: (954) 831-6907
jwatson@17th.flcourts.org

/s/ Laura M. Watson
LAURA M. WATSON
Florida Bar No.: 476330

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by email to: Miles A. McGrane, III, Esq. miles@mcgranelaw.com lisa@mcgranelaw.com The McGrane Law Firm, Special Counsel, One Datan

Center, Ste. 1500, 9100 South Dadeland Boulevard, Miami, Florida 333156; Lauri Waldman Ross, Esq. RossGirten@Laurilaw.com Counsel to the Hearing Panel of the JQC, Ste. 1612, 9100 South Dadeland Boulevard, Miami, Florida 333156; Michael L. Schneider, Esq. mschneider@floridajqc.com General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303, this 16th day of September, 2013.

Pursuant to FJQCR Rule 10(b) a copy is furnished by email to: The Honorable Kerry L. Evander, evanderk@flcourts.org, Chair of the JQC, 300 S. Beach Street, Daytona Beach, FL 32114.

/s/ Laura M. Watson
LAURA M. WATSON

Exhibit C

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA M. WATSON

**RE-NOTICE OF TAKING VIDEOTAPED DEPOSITION DUCES
TECUM OF NON-PARTY**

PLEASE TAKE NOTICE that the undersigned attorney will take the videotaped deposition of the below named person at United Reporting, Inc., 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), upon oral examination before United Reporting, Inc., Notary Public or officer authorized by law to take depositions in the State of Florida.

Name: Ghenete Wright Muir, Esquire

Date: Thursday, January 16, 2013

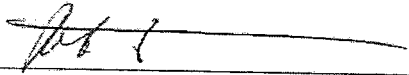
Time: 1:30 p.m.

The oral examination will continue from day to day until completed. The deposition is being taken pursuant to the Rules of Civil Procedure.

**Deponent is directed to bring with her the documents outlined in Schedule
"A" attached hereto.**

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding shall contact the undersigned attorney at (561) 392-1230 no later than seven days prior to the proceedings; for hearing impaired, telephone 1-800-955-8771 (TDD), via Florida Relay Service.

SWEETAPPLE, BROEKER & VARKAS, PL
Co-counsel for Judge Watson
20 SE 3rd Street
Boca Raton, Florida 33432-3911
Telephone: (561) 392-1230
Email: Pleadings@sweetapplelaw.com

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 8th day of January, 2014 to: The Honorable Laura M. Watson, Circuit Judge, 17th Judicial Circuit, Room 1005B, 201 SE 6th Street, Fort Lauderdale, Florida 33301 (E-mail: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, 2103 Country Club Prado, Coral Gables, Florida 33134 (E-mail: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire,

Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (E-mail: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (E-mail: mschneider@floridaajqc.com; bkennerly@floridaajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by e-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (E-mail: evanderk@flcourts.org).

By: 

ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

**JUDGE LAURA M. WATSON'S SCHEDULE "A" TO VIDEO SUBPOENA
DUCES TECUM**

DEFINITIONS AND INSTRUCTIONS

1. **"Documents"** means any tangible thing, recording or reproduction in any manner, any visual or auditory data in your possession, including without limiting the generality of its meaning, correspondence, memoranda, transcripts, stenographic or handwritten notes, telegrams or telexes, letters, reports, graphs or charts, ledgers, invoices, diaries or calendars, minute books, meeting minutes, computer print-outs, prospectuses, financial statements, annual, quarterly or other filings with any governmental agency or department, annual reports (including schedules thereto), statistical studies, articles appearing in publications, press releases, video or audio tapes, computer data bases, hard drives, storage tapes or disks, all e-mail data, and any papers on which words have been written, printed, typed or otherwise affixed, and shall mean every copy of every document where such copy is not an identical copy of an original (whether different from the original by reason of any notation made on such copy or any other reason).

2. The term **"correspondence"** refers to any **"documents"** as that term is defined above, that have been exchanged from one person or entity to another person or entity or which were intended to be exchanged or prepared in order to be so

communicated from one person or entity to another, whether or not such correspondence was actually exchanged, mailed or posted.

3. To the extent not clarified above, this request for production specifically includes "**electronic communications**" which includes electronic mail messages (e-mail), text messages, and other electronic communications, which may or may not be reduced to hard copy in the normal course of business and which may be stored or archived on file servers, hard or floppy disks or diskettes, back-up tapes, or other storage media.

4. If any of these documents cannot be produced in full, produce them to the extent possible, specifying your reasons for your inability to produce the remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion.

5. As used herein, the words "**pertain(s) to**" or "**mentions**" shall mean: relates to, refers to, contains, concerns, describes, mentions, constitutes, supports, corroborates, demonstrates, proves, evidence, refutes, disputes, rebuts, controverts and/or contradicts.

6. Judge Laura M. Watson's Exhibit List is attached as **Exhibit "A"**.

7. Pursuant to Florida Rules of Civil Procedure 1.280(5), regarding **claims of privilege**, for each document responsive to these requests which is withheld under any claim of attorney-client privilege or work product privilege, provide a statement by a person having knowledge setting forth as to each document:

- (a) Name and title of the author(s);
- (b) The name and title of each person to whom the document was addressed;
- (c) The name and title of each person to whom a copy of the document was sent;
- (d) The date of the document;
- (e) The number of pages;
- (f) A brief description of the nature and subject matter of the document;
- (g) The nature of the claimed privilege;
- (h) The category or categories of this request to which the document is responsive; and
- (i) The exact location of the original and each copy as of the date of the receipt of this request.

Pursuant to rule a “ the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.” Florida Rules of Civil Procedure 1.280(5).

8. The term “**interested persons**” means the following individuals:

- All persons listed on Judge Laura M. Watson’s Exhibit List attached as **Exhibit “A”** or any of their employees or associates.
- Miles A. McGrane, III or any person who is employed by or a partner at The McGrane Law firm.
- Any member of the JQC, i.e., Ricardo Morales, III, Hon. Kerry I. Evander, Alan B. Bookman, Shirlee P. Bowne, Michelle K. Cummings, Mayanne Downs, Harry R. Duncanson, Hon. Thomas B. Freeman, Hon. Krista Marx, Steven R. Maxwell, Hon. Michelle T. Morley, Hon. Robert Morris, Jerome S. Osteryoung, Hona. James A. Ruth, John G. White, III, Brooke S. Kennerly, Michael L. Schneider, including retirees, i.e., Preston Silvernail and Paul Backman.

- Any partner at the firm of Klein Glasser Park Lowe & Pelstring, PL, Mark J. Sullivan, Esq. or any person who is employed by or a partner at that firm.
- Lauri Waldman Ross or any person who is employed by or is a partner at the firm Ross & Girtten.

9. The term "**Insurance Companies**" means: Allstate Insurance Company; United Automobile Insurance; USAA Insurance Company; GEICO; Progressive Insurance; State Farm Insurance; Liberty Mutual; First Mercury Insurance and any of these insurance companies' subsidiaries or affiliates.

10. "**Attorney's Fees Litigation**" means the lawsuit which was brought in the 15th Judicial Circuit in Palm Beach County, Florida, in the case of Stewart, Tilghman, Fox and Bianchi P.A., William C. Hearon, P.A., and Todd S. Stewart, P.A., versus Kane and Kane, Laura M. Watson, P.A. et al., Case No. 502004 CA 006138 XXXX MBAO.

11. "**Grievance Complaint**" means the 2008 Grievance Complaint filed by Larry Stewart and William Hearon or any other person with the Florida Bar against Laura M. Watson and/or Laura M. Watson, P.A. which "**pertain(s) to**" or

"mentions" Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012.

12. The **"Stewart Law Firm"** means the law firm of Stewart, Tilghman, Fox and Bianchi P.A. or any of the firm's associates or employees.

13. The **"Hearon Law Firm"** means the law firm of William C. Hearon, P.A. or any of the firm's associates or employees.

14. The **"Todd S. Stewart Law Firm"** means the law firm of Todd S. Stewart, P.A. or any other subsequent name changes or new law firms wherein Todd S. Stewart, Esq. is a partner or associate.

15. Unless otherwise specified, all time frames shall be from 1/1/2008 to date of production.

DOCUMENTS REQUESTED

1. A copy of the Complaint and your complete file which **"pertain(s) to"** or **"mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012. This request includes all affidavits of witnesses in the Florida Bar's possession at the time of the probable cause finding and any and all **"documents"** which were provided to the **"interested persons"**.

2. Any and all **"documents"** as defined above, between any you or any other Florida Bar Grievance Committee member or **"interested persons"** as defined above, that **"pertain(s) to"** or **"mentions"** Laura Watson from 2008 through the date of production.
3. Any **"documents"** **"correspondence"** or **"electronic communications"** that **"pertain(s) to"** or **"mentions"** Laura Watson or Laura M. Watson d/b/a Watson and Lentner between the Florida Bar and the Florida JQC member identified above from May 1, 2012 through the present.
4. Copies of any **"documents"** **"correspondence"** or **"electronic communications"** between you and any **"interested persons"** as defined above regarding the prospects for your personal employment.
5. A copy of transcripts of testimony of witnesses or affidavits which **"pertain(s) to"** or **"mentions"** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause by the Florida Bar in October 2012.
6. A copy of all meeting minutes, meeting books, stenographic or handwritten notes which **"pertain(s) to"** or **"mentions"** Laura M. Watson which reflects the

votes of the Bar Grievance Committee individually on each and every numbered allegation in the probable cause finding.

7. Phone records which reflect conversations with any of the **“interested persons”** from 1/1/2008 to the date of production.

8. All Complaints of **“interested persons”** in the Florida Bar’s possession at the time of the probable cause hearing.

Exhibit D

RECORDS PRODUCED BY THE FLORIDA BAR

Tab	Date	Description
1	10/12/05	Third Amended Complaint, <i>Stewart Tilghman Fox & Bianchi, P.A. v. Marks & Fleischer, P.A.</i> , Case No. 50-2004-CA-006138, Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, Florida
2	04/24/08	Final Judgment, <i>Stewart Tilghman Fox & Bianchi, P.A. v. Kane & Kane</i> , Case No. 50-2004-CA-006138, Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, Florida
3	04/30/08	Initial Complaint (received 05/09/08)
4	06/26/08	Letter from The Florida Bar (Alan Pascal) to Laura Watson
5	07/01/08	Letter from Peter Goldman to The Florida Bar (Alan Pascal)
6	09/04/08	Letter from Larry Stewart and William Hearon to The Florida Bar (Alan Pascal) re: reply to responses of Respondents
7	11/12/08	Letter from Larry Stewart to The Florida Bar (Alan Pascal) re: trial court's denial of post-trial motions
8	11/12/08	Letter from Larry Stewart to The Florida Bar (Alan Pascal)
9	11/14/08	Letter from Peter Goldman to The Florida Bar (Alan Pascal) re: supplement to initial response (without enclosures)
10	11/14/08	Letter from Peter Goldman to The Florida Bar (Alan Pascal) re: supplement to initial response (with enclosures)
11	11/24/08	Letter from Larry Stewart to The Florida Bar (Alan Pascal)
12	04/13/09	Letter from The Florida Bar (Alan Pascal) to William Hearon
13	10/01/10	Letter from Larry Stewart to The Florida Bar (Alan Pascal)
14	01/11/11	Consolidated Answer Brief of Appellees and Initial Brief (Cross-Appeal)
15	08/30/11	Consolidated Cross-Reply Brief of Appellees/Cross-Appellants
16	02/29/12	Fourth DCA Opinion
17	05/11/12	Letter from William Hearon to The Florida Bar (Ghenete Muir)
18	05/16/12	Letter from Larry Stewart to The Florida Bar (Ghenete Muir)

Tab	Date	Description
19	05/18/12	Letter from William Hearon to The Florida Bar (Ghenete Muir)
20	05/25/12	Notice of Grievance Committee Review
21	06/06/12	Certified Mail Receipt for mail from The Florida Bar to Peter Goldman
22	06/07/12	E-mail from Ghenete Muir to Adam Rabinowitz re: extension
23	06/07/12	E-mails between Ghenete Muir and Adam Rabinowitz
24	06/07/12	E-mail from Adam Rabinowitz to Ghenete Muir attaching Peter Goldman's 08/11/08 correspondence
25	06/07/12-07/16/12	E-mail string between Adam Rabinowitz, Peter Goldman, and Ghenete Muir
26	06/08/12	Letter from Larry Stewart to The Florida Bar (Ghenete Muir)
27	07/16/12	Laura Watson's Response to Complaint
28	08/10/12	Letter from Larry Stewart and William Hearon to Grievance Committee
29	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (1 of 6)
30	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (2 of 6)
31	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (3 of 6)
32	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (4 of 6)
33	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (5 of 6)
34	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (6 of 6)
35	10/02/12	Amended Notice of Grievance Committee Review
36	10/12/12	Second Amended Notice of Grievance Committee Review (without exhibits)

Tab	Date	Description
37	10/12/12	Second Amended Notice of Grievance Committee Review (with exhibits)
38	10/22/12	Notice of Finding of Probable Cause for Further Disciplinary Proceedings
39	10/22/12	Letter from Ghenete Muir to Peter Goldman re: notice of finding of probable cause
40	10/22/12	Letter from Ghenete Muir to William Hearon and Larry Stewart re: notice of finding of probable cause
41	11/19/12	Letter from Ghenete Muir to Peter Goldman re: new Designated Reviewer
42	11/20/12	Letter from Larry Stewart and William Hearon to The Florida Bar (John Berry)
43	11/28/12	Letter from Larry Stewart and William Hearon to Michael Schneider (Florida Judicial Qualifications Commission) enclosing complaint against Laura Watson
44	12/26/12	Letter from The Florida Bar (Kenneth Marvin) to the Florida Judicial Qualifications Commission
45	01/30/13	Letter from The Florida Bar (Michele Wright) to Julio Gonzalez, Jr. re: public records request
46	09/16/13	Judge Laura M. Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction
47	09/20/13	Judicial Qualifications Commission's Response to Judge Laura M. Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction
48	09/30/13	Memorandum of Law in Response to the JQC's Response to Judge Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction
49	10/03/13	JQC's Order on Pending Motions
50	11/12/13	Subpoena for and Notice of Taking of Videotaped Deposition Duces Tecum of Non-Party Ghenete Wright Muir
51	11/14/13	Letter from Robert Sweetapple to Miles McGrane, III

RECORDS PRODUCED BY THE FLORIDA BAR

	DATE	To	From	Document	Description
52	11-2-12	GWM	L. Stewart	e-mail	Believe all 6 attys should be disbarred. Willing to help in any way possible.
53	11-7-12	GWM	L. Stewart	e-mail	What happens now that L. Watson has won her judgeship?
54	6-13-13	L. Stewart	K. Marvin	e-mail	Showing that an order of the court is sufficient for TFB's burden of proof of the rule violations.
55	6-17-13	L. Stewart	K. Marvin	e-mail	Sent a copy of the referee manual.
56	7-10-13	AEQ	L. Stewart	e-mail	Sets forth what he believes should be our trial strategy, arguments, etc.
57	7-18-13	L. Stewart	AAP	e-mail	Acknowledging receipt of the 7-10-13 e-mail.
58	12-26-12	Judicial Qualifications Commission	Ken Marvin	Letter	Cover letter enclosing the public records portion of TFB file on Watson.
59	1-30-13	Julio Gonzalez	Michele Wright	Letter	Letter regarding costs for public records request and returning a costs check for a public records request. Requesting a new check with the correct amount.
60	8-19-13	Adria Quintela	Ken Marvin	e-mail	Service Notice of court filing by L. Watson in JQC case by Michael Schneider
61	10-7-13	Adria	Lisa Adamson,	e-mail	e-mail forwarding

		Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	assistant to Miles McGrane		Response to Watson's Motion to Dismissed filed in JQC case.
62	10-7-13	Adria Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	Lisa Adamson, assistant to Miles McGrane	e-mail	e-mail forwarding Watson's Motion to Dismiss in JQC case.
63	10-7-13	Adria Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	Lisa Adamson, assistant to Miles McGrane	e-mail	e-mail forwarding Order on Pending Motions in JQC case.
64	10-7-13	Adria Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	Lisa Adamson, assistant to Miles McGrane	e-mail	e-mail forwarding Memo of Law in response to JQC's response to L. Watson's Motion to dismiss
65	10-25-13	R. Sweetapple	D. Bianchi	e-mail	e-mail inquiring about Watson's interest in deposing Bianchi

EXHIBIT D

John A. DeVault, III
Charles P. Pillans, III
Henry M. Cox, III
C. Warren Tripp, Jr.
Allan F. Brooke II
R.H. Farnell II
O. David Barksdale
Courtney K. Grimm
Patrick P. Coll
Kevin B. Cook
Brian T. Coughlin
Ashley W. Greene
Michael E. Lockamy
John G. Woodlee



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BEDELL, DITTMAR, DEVAULT,
PILLANS & COXE, P.A.
Attorneys at Law

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Chester Bedell (*d. 1981*)
Nathan Bedell (*d. 1982*)
C. Harris Dittmar (*d. 2009*)

December 23, 2013

Mr. Robert A. Sweetapple, Esq.
Sweetapple, Broecker & Varkas, P.L.
165 E. Boca Raton Road
Boca Raton, FL 33432

Dear Mr. Sweetapple:

Pursuant to our conversation this past Friday, I have provided two banker boxes of documents, broken down into five notebooks each with an index. These are the materials that we have determined you would be entitled to under Florida Bar Rules governing public records. I have a handful of additional materials I intend to provide to you, which I may do electronically later this week.

I am also e-mailing you the index this afternoon. I should also have the privilege log e-mailed to you by the end of the week, which is fairly short.

Please call if you have any questions.

Respectfully,

Henry M. Cox, III

HMC:jsg

Enclosures

cc: Melissa Nelson, Esq.

RECORDS PRODUCED BY THE FLORIDA BAR

Tab	Date	Description
1	10/12/05	Third Amended Complaint, <i>Stewart Tilghman Fox & Bianchi, P.A. v. Marks & Fleischer, P.A.</i> , Case No. 50-2004-CA-006138, Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, Florida
2	04/24/08	Final Judgment, <i>Stewart Tilghman Fox & Bianchi, P.A. v. Kane & Kane</i> , Case No. 50-2004-CA-006138, Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, Florida
3	04/30/08	Initial Complaint (received 05/09/08)
4	06/26/08	Letter from The Florida Bar (Alan Pascal) to Laura Watson
5	07/01/08	Letter from Peter Goldman to The Florida Bar (Alan Pascal)
6	09/04/08	Letter from Larry Stewart and William Hearon to The Florida Bar (Alan Pascal) re: reply to responses of Respondents
7	11/12/08	Letter from Larry Stewart to The Florida Bar (Alan Pascal) re: trial court's denial of post-trial motions
8	11/12/08	Letter from Larry Stewart to The Florida Bar (Alan Pascal)
9	11/14/08	Letter from Peter Goldman to The Florida Bar (Alan Pascal) re: supplement to initial response (without enclosures)
10	11/14/08	Letter from Peter Goldman to The Florida Bar (Alan Pascal) re: supplement to initial response (with enclosures)
11	11/24/08	Letter from Larry Stewart to The Florida Bar (Alan Pascal)
12	04/13/09	Letter from The Florida Bar (Alan Pascal) to William Hearon
13	10/01/10	Letter from Larry Stewart to The Florida Bar (Alan Pascal)
14	01/11/11	Consolidated Answer Brief of Appellees and Initial Brief (Cross-Appeal)
15	08/30/11	Consolidated Cross-Reply Brief of Appellees/Cross-Appellants
16	02/29/12	Fourth DCA Opinion
17	05/11/12	Letter from William Hearon to The Florida Bar (Ghenete Muir)
18	05/16/12	Letter from Larry Stewart to The Florida Bar (Ghenete Muir)

Tab	Date	Description
19	05/18/12	Letter from William Hearon to The Florida Bar (Ghenete Muir)
20	05/25/12	Notice of Grievance Committee Review
21	06/06/12	Certified Mail Receipt for mail from The Florida Bar to Peter Goldman
22	06/07/12	E-mail from Ghenete Muir to Adam Rabinowitz re: extension
23	06/07/12	E-mails between Ghenete Muir and Adam Rabinowitz
24	06/07/12	E-mail from Adam Rabinowitz to Ghenete Muir attaching Peter Goldman's 08/11/08 correspondence
25	06/07/12-07/16/12	E-mail string between Adam Rabinowitz, Peter Goldman, and Ghenete Muir
26	06/08/12	Letter from Larry Stewart to The Florida Bar (Ghenete Muir)
27	07/16/12	Laura Watson's Response to Complaint
28	08/10/12	Letter from Larry Stewart and William Hearon to Grievance Committee
29	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (1 of 6)
30	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (2 of 6)
31	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (3 of 6)
32	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (4 of 6)
33	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (5 of 6)
34	08/10/12	E-mail from William Hearon to Ghenete Muir attaching documents (6 of 6)
35	10/02/12	Amended Notice of Grievance Committee Review
36	10/12/12	Second Amended Notice of Grievance Committee Review (without exhibits)

Tab	Date	Description
37	10/12/12	Second Amended Notice of Grievance Committee Review (with exhibits)
38	10/22/12	Notice of Finding of Probable Cause for Further Disciplinary Proceedings
39	10/22/12	Letter from Ghenete Muir to Peter Goldman re: notice of finding of probable cause
40	10/22/12	Letter from Ghenete Muir to William Hearon and Larry Stewart re: notice of finding of probable cause
41	11/19/12	Letter from Ghenete Muir to Peter Goldman re: new Designated Reviewer
42	11/20/12	Letter from Larry Stewart and William Hearon to The Florida Bar (John Berry)
43	11/28/12	Letter from Larry Stewart and William Hearon to Michael Schneider (Florida Judicial Qualifications Commission) enclosing complaint against Laura Watson
44	12/26/12	Letter from The Florida Bar (Kenneth Marvin) to the Florida Judicial Qualifications Commission
45	01/30/13	Letter from The Florida Bar (Michele Wright) to Julio Gonzalez, Jr. re: public records request
46	09/16/13	Judge Laura M. Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction
47	09/20/13	Judicial Qualifications Commission's Response to Judge Laura M. Watson's Motion to Dismiss for Lack of Subject Matter Jurisdiction
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51	11/14/13	Letter from Robert Sweetapple to Miles McGrane, III

EXHIBIT E

The Florida Bar/Laura Watson

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 5:56 PM
Subject: The Florida Bar/Laura Watson
TEXT.htm; 20140109 Index of documents produced to Sweetapple_1.pdf; 20140109 Docs produced to Sweetapple_Part1.pdf; 20140109 Docs produced to Sweetapple_Part2.pdf; 20140109 Docs produced to Sweetapple_Part3.pdf; 20140109 Docs produced to Sweetapple_Part8.pdf; 20140109 Docs produced to Sweetapple_Part9.pdf; 20140109 Docs produced to Sweetapple_Part7.pdf

Mr. Sweetapple:

Please find attached additional documents re: the above case. These documents have also been sent to you in hard copy form via FedEx and you should receive them tomorrow. There will be multiple e-mails following as some of the documents are large. There will be 14 different documents altogether, plus an index. If you do not receive any of them, please don't hesitate to contact me.

Thank you.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Cox, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 2

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:01 PM
Subject: The Florida Bar/Laura Watson e-mail 2
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part10.pdf; 20140109 Docs produced to Sweetapple_Part11.pdf; 20140109 Docs produced to Sweetapple_Part12.pdf

Mr. Sweetapple:

Documents 10-12.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 3

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:05 PM
Subject: The Florida Bar/Laura Watson e-mail 3
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part13.pdf; 20140109 Docs produced to Sweetapple_Part14.pdf; 20140109 Docs produced to Sweetapple_Part6.pdf

Mr. Sweetapple:

Documents 6, 13 and 14.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 4

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:07 PM
Subject: The Florida Bar/Laura Watson e-mail 4
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part4_Part1.pdf

Mr. Sweetapple:

Document 4, part 1.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 5

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:08 PM
Subject: The Florida Bar/Laura Watson e-mail 5
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part4_Part2.pdf

Mr. Sweetapple:

Document 4, part 2.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 6

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:09 PM
Subject: The Florida Bar/Laura Watson e-mail 6
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part5_Part1.pdf

Mr. Sweetapple:

Document 5, part 1.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 7

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:10 PM
Subject: The Florida Bar/Laura Watson e-mail 7
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part5_Part2.pdf

Mr. Sweetapple:

Document 5, part 2.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

The Florida Bar/Laura Watson e-mail 8

From: Erica Cruzat
To: rsweetapple@sweetapplelaw.com
CC: HMC; mnelson@mcguirewoods.com
BC:
Date: Thursday - January 9, 2014 6:11 PM
Subject: The Florida Bar/Laura Watson e-mail 8
Attachments: TEXT.htm; 20140109 Docs produced to Sweetapple_Part5_Part3.pdf

Mr. Sweetapple:

Document 5, part 3. This concludes the e-mails for this group of documents.

Erica L. Cruzat ~ Florida Registered Paralegal
Bedell, Dittmar, DeVault, Pillans & Coxe, P.A.
101 East Adams Street
Jacksonville, FL 32202
Phone: 904-353-0211 Fax: 904-353-9307
Email: elc@bedellfirm.com

RECORDS PRODUCED BY THE FLORIDA BAR

	DATE	To	From	Document	Description
1	11-2-12	GWM	L. Stewart	e-mail	Believe all 6 attys should be disbarred. Willing to help in any way possible.
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3	6-13-13	L. Stewart	K. Marvin	e-mail	Showing that an order of the court is sufficient for TFB's burden of proof of the rule violations.
4	6-17-13	L. Stewart	K. Marvin	e-mail	Sent a copy of the referee manual.
5	7-10-13	AEQ	L. Stewart	e-mail	Sets forth what he believes should be our trial strategy, arguments, etc.
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8	1-30-13	Julio Gonzalez	MicheleWright	Letter	Letter regarding costs for public records request and returning a costs check for a public records request. Requesting a new check with the correct amount.
9	8-19-13	Adria Quintela	Ken Marvin	e-mail	Service Notice of court filing by L. Watson in JQC case by Michael Schneider
10	10-7-13	Adria	Lisa Adamson,	e-mail	e-mail forwarding

		Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	assistant to Miles McGrane		Response to Watson's Motion to Dismiss filed in JQC case.
11	10-7-13	Adria Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	Lisa Adamson, assistant to Miles McGrane	e-mail	e-mail forwarding Watson's Motion to Dismiss in JQC case.
12	10-7-13	Adria Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	Lisa Adamson, assistant to Miles McGrane	e-mail	e-mail forwarding Order on Pending Motions in JQC case.
13	10-7-13	Adria Quintela; Ghenete Wright Muir; Alan Pascal; Emily Sanchez; Miles McGrane	Lisa Adamson, assistant to Miles McGrane	e-mail	e-mail forwarding Memo of Law in response to JQC's response to L. Watson's Motion to dismiss
14	10-25-13	R. Sweetapple	D. Bianchi	e-mail	e-mail inquiring about Watson's interest in deposing Bianchi

EXHIBIT F

Henry Coxie - Re: JQC Watson

From: Henry Coxie
To: Sweetapple, Robert
Date: 1/7/2014 6:13 PM
Subject: Re: JQC Watson
CC: Nelson, Melissa W.
BC: Coxie, Henry
Attachments: Watson privilege log5 to turn over_1.pdf

Bob -- attached is the privilege log. Can we talk in the morning? We do need to discuss the deposition, scope and entitlement to take it.

Thanks,

Hank



HENRY M. COXE, III
BOARD CERTIFIED CRIMINAL TRIAL LAWYER

BEDELL, DITTMAR, DEVAULT, PILLANS & COXE, P.A.
Phone: (904) 353-0211 x137 | **Fax:** (904) 353-9307 | hmc@bedellfirm.com
The Bedell Building | 101 East Adams Street | Jacksonville, Florida 32202

EXHIBIT G

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING JUDGE,

SC13-1333

LAURA MARIE WATSON, NO. 12-613

_____ /

ORDER ON PENDING MOTIONS

This matter came to be heard at a telephonic hearing conducted on January 17, 2014 before Florida Judicial Qualifications Commission (FJQC) Hearing Panel Chairman, The Honorable Kerry Evander. In attendance were Miles M. McGrane, III, Special Counsel to the FJQC, Michael Schneider, FJQC General Counsel, Brooke Kennerly, FJQC Executive Director, Lauri Waldman Ross, Counsel to the FJQC Hearing Panel, the Respondent Judge Laura Marie Watson, and her co-counsel Robert Sweetapple. Attorneys Henry M. Coxe, III and Melissa W. Nelson appeared on behalf of The Florida Bar and attorney Larry Stewart appeared on his own behalf.

The Chair of the FJQC Hearing Panel is required to dispose of all pretrial motions, which may be heard by teleconference or to be determined "with or without hearings." FJQC Rule 7(b). Accordingly, the Chair scheduled a hearing on Judge Watson's Motion to Compel Documents, Motion for Sanctions, Motion to Overrule all Claims of Privilege or Confidentiality Based on Voluntary

Disclosure and Failure to File a Privilege Log, Motion to Reopen Discovery, Permit Completion of Suspended Deposition of Complaining Witness Larry Stewart and to Continue the February 10, 2014 Trial” and the “Florida Bar’s Motion to Quash Deposition Subpoena Duces Tecum and for Protective Order” (joined in by Special Counsel).

To fully consider and evaluate the motions, it is important to consider the procedural history of this case. In June 2004, the law firm of Stewart Tilghman Fox & Bianchi, P.A., (“Stewart Firm”) and two other law firms sued the Respondent, Respondent’s Professional Association, and other attorneys on claims of fraudulent inducement, quantum meruit/unjust enrichment, and constructive trust. The lawsuit arose out of a dispute regarding the distribution of settlement proceeds from litigation in which the Stewart Firm and Respondent’s Professional Association were co-counsel, on at least one case. After a lengthy non-jury trial held in the Fifteenth Judicial Circuit in and for Palm Beach County, the Honorable David S. Crow entered a Judgment on April 24, 2008, that awarded, *inter alia*, the Stewart firm \$981,792.00 plus pre-judgment interest against Respondent’s Professional Association on the unjust enrichment count.¹ In its order, the trial

¹ The trial court declined to enter a Judgment against Respondent, individually, finding that Laura M. Watson, P.A. was the actual party to any relevant agreements.

court found that “[t]he methodology used by the Defendant law firms in creating this settlement violated a number of rules, including Rules 4-1.5(f)(1) and (5), 4-1.7(a), (b) and (c), 4-1.8 and 4-1.8(g) and 4-1.4 of the Rules of Professional Conduct.” As a result, the Final Judgment provided that a copy of the opinion was being forwarded to the Florida Bar for its consideration.

The Final Judgment entered by the trial court was affirmed. *Kane v. Stewart Tilghman Fox & Bianchi, P.A., et al.*, 85 So. 3d 1112 (Fla. 4th DCA 2012). The respondent’s professional association sought further review, but the Florida Supreme Court declined to consider the case. *Laura M. Watson, P.A., v. Stewart Tilghman Fox & Bianchi, P.A., et al.*, 118 So. 3d 221 (Fla. 2013).

In October 2012, the Florida Bar found probable cause that Respondent had violated various rules of professional conduct. Shortly thereafter, Respondent was elected as a Circuit Court Judge in Florida’s Seventeenth Judicial Circuit. She took office on or about January 8, 2003. Because the Florida Bar does not have the authority to maintain a disciplinary action against a Judge, its file was ultimately forwarded to the FJQC.

Article v, section 12(a)(1), Fla. Const. provides:

There shall be a judicial qualifications commission vested with jurisdiction to investigate and recommend to the Supreme Court of Florida the removal from office of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966,

(without regard to the effective date of this section) demonstrates a present unfitness to hold office, and to investigate and recommend the discipline of a justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966 (without regard to the effective date of this section), warrants such discipline. For purposes of this section, discipline is defined as any or all of the following: reprimand, fine, suspension with or without pay, or lawyer discipline. The commission shall have jurisdiction over justices and judges regarding allegations that misconduct occurred before or during service as a justice or judge if a complaint is made no later than one year following service as a justice or judge.

The Florida Supreme Court has interpreted this provision to mean that “[m]isconduct committed by an attorney who subsequently becomes a judge falls within the subject matter of this Court and the JQC, *no matter how remote.*” *In re Henson*, 913 So. 2d 579, 588 (Fla. 2005)(emphasis added); *see also In re Davey*, 645 So. 2d 398, 410 (Fla. 1994).

The 1996 revision to Article V, section 12 established a two-stage process governing the FJQC role in judicial discipline proceedings. *In re Henson*, 913 So.2d at 589 & n.3; Fla. Const. art v, § 12(b). “This process, which provides for a charging decision by the Investigative Panel and an adjudicatory hearing before the Hearing Panel, created a neutral adjudicative body within the JQC.” *In re Henson*, 913 So. 2d at 589, n.3.

The Investigative Panel of the FJQC found probable cause that Respondent had violated numerous rules of professional conduct with regard to the actions she took that were the subject (or related to the subject) of the litigation that arose between Respondent, her Professional Association, and the Stewart firm. The FJQC's complaint against Respondent was filed on July 24, 2013 and alleged that her actions, if proven, would demonstrate an unfitness to hold judicial office.

By FJQC Hearing Panel Order dated November 20, 2013, the matter was scheduled for final hearing for the week beginning February 10, 2014.

Respondent has engaged in vigorous pretrial litigation, with motions focusing primarily on: (1) whether the FJQC has subject matter jurisdiction to prosecute this action against her; and (2) whether the FJQC complaint was the result of "prosecutorial misconduct."

With regard to the first issue, Respondent's repeated challenges to the jurisdiction of the FJQC have been rejected. *See Henson; Davey.*

With regard to the second issue, Respondent's claim of "prosecutorial misconduct" appears to be based on the contention that the FJQC Investigative Panel was somehow manipulated by Special Counsel Miles McGrane, to bring this action to assist the Stewart firm in their ongoing civil litigation against Respondent and/or to assist the Stewart firm to pursue its "vendetta" against Respondent. This claim does not address the critical issue of whether Respondent engaged in the

misconduct alleged in the Complaint filed by the FJQC. In *In re Graham*, 620 So. 2d 1273 (Fla. 1993), the Florida Supreme Court affirmed that the focus of a JQC proceeding should be on the conduct and fitness of the Respondent Judge:

Regrettably, in his appearance before the JQC, in his brief, and in his oral argument to this Court, Graham only obliquely addressed the critical issue of his present fitness to serve as a judge. Instead, he focuses his argument on the conduct of other officials, attorneys, and citizens of Citrus County. Regardless of whether his criticisms of these individuals and institutions are well-founded, they are not relevant to our determination of his ability to administer justice fairly and professionally. *Id.* at 1275.

Respondent's "Motion to Compel Documents, Motion for Sanctions, Motion to Overrule all Claims of Privilege or Confidentiality Based on Voluntary Disclosure and Failure to File a Privilege Log, Motion to Reopen Discovery to Permit Completion of Suspended Deposition of Complaining Witness Larry Stewart and to Continue the February 10, 2014 Trial" is largely directed to discovery matters related to the claim of "prosecutorial misconduct." In the motion, several allegations are made against Mr. McGrane for "lawyer misconduct" in the discovery process. These allegations of misconduct are found to be unsupported and Respondent's Motion is denied in its entirety.² The

² Respondent's request to further depose Larry Stewart in his potential capacity as an expert witness is denied based on Special Counsel's representation that Mr. Stewart will not be requested to provide expert opinion beyond that which he

argument that otherwise privileged FJQC communications and documents lost that privileged status to the extent they took place after Respondent's election but prior to her assumption of office is also rejected. The privilege is, in part, designed to protect complainants who file complaints against a particular Judge through the FJQC. *In re Graziano*, 696 So. 2d 744, 751-752 (Fla. 1997). That purpose is equally as applicable when a complaint is filed between a Judge's election and assumption of office, as it is when a complaint is filed after the Judge takes office.

As to the Florida Bar's Motion, the record reflects that Respondent served Attorney Ghenete Wright Muir with a subpoena for videotaped deposition duces tecum. Ms. Muir was the Florida Bar counsel for the Fort Lauderdale Branch of the Florida Bar at the time the Seventeenth Circuit Grievance Committee made its probable cause finding against Respondent. At the hearing conducted January 17, 2014, counsel for the Florida Bar represented that the Florida Bar had properly complied with its obligation to respond to the request for documents and had, in fact, provided all documents to Respondent that had previously been provided to the FJQC. As to Respondent's request to depose Ms. Muir, the Florida Bar argued that virtually all of Ms. Muir's otherwise relevant testimony would be protected by

already gave during the trial before Judge Crow. This ruling is without prejudice to "Judge Watson's Motion for Extension of Time to Depose Larry Stewart in his County of Residence or, in the Alternative, to Strike his Expert Testimony and Motion for Extension of Time to Exchange Exhibits," which was just served.

Rule 3-7.1, R. Reg. Fla. Bar, attorney-client privilege or work product privilege. In determining whether a protective order is appropriate, the competing interests that would be served by granting or denying discovery must be balanced. *See Rasmussen v. South Florida Blood Service, Inc.*, 500 So.2d 533, 535 (Fla. 1987). Here, Respondent is seeking to depose an individual who was counsel to the Grievance Committee and whose knowledge of relevant facts arose predominantly from privileged communications. By contrast, it appears unlikely that any non-privileged information that Ms. Muir may possess would assist in the determination of whether Respondent engaged in misconduct as alleged in the FJQC Complaint. Accordingly, the Florida Bar's "Motion to Quash Subpoena Duces Tecum and for Protective Order" is granted.

Finally, the respondent judge's motion to continue the final hearing is denied.

Done and Ordered this 22nd day of January, 2014.

FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION

By: /s/ Honorable Kerry Evander
Honorable Kerry Evander
FJQC HEARING PANEL CHAIR
Fifth District Court of Appeal

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EXHIBIT H

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING JUDGE,

SC13-1333

LAURA MARIE WATSON, NO. 12-613

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS
OF THE HEARING PANEL, FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION

Pursuant to the Florida Const. art v, §12(a)(1), (b) and (c) and Florida Judicial Qualifications Commission ("FJQC") Rules, the FJQC Hearing Panel submits these Findings, Conclusions, and Recommendations to the Florida Supreme Court.

Course of Proceedings¹

In June 2004, the law firm of Stewart Tilghman Fox & Bianchi, P.A. (the "Stewart Firm") sued then-attorney Laura M. Watson and her professional association Laura M. Watson, P.A. d/b/a/ Watson & Lentner ("the professional association") on claims of fraudulent inducement, quantum meruit and/or unjust

¹ Pleadings and orders are identified by date. References are to the transcript of final hearing (T.), and exhibits admitted in evidence. (Pet. Ex. __; Resp. Ex. __).

enrichment, and sought a constructive trust.² After a lengthy non-jury trial held in the Fifteenth Judicial Circuit in and for Palm Beach County, the Honorable David S. Crow entered final judgment on April 24, 2008.

Judge Crow noted that the facts and circumstances of the litigation “could be a case study for a course on professional conduct involving multi-party joint representation agreements and the ethical pitfalls surrounding such agreements” in the face of competing, conflicting interests. He found the procedure and methodology used to settle claims by the Defendant law firms violated a number of Rules Regulating the Florida Bar.

Judge Crow awarded the Plaintiff law firms \$981,792.00 plus pre-judgment interest against the professional association on their unjust enrichment claim. He declined to enter judgment against Laura Watson, individually, finding that the professional association was party to the relevant agreements. Recognizing that ethical issues “need to be resolved in a separate forum,” Judge Crow forwarded a copy of his opinion to The Florida Bar “for action, if any, in regard to this Court’s finding of violations of Rules of Professional Conduct 4-1.5(f)(1) and (5), 4-

² William C. Hearon, P.A. and Todd S. Stewart, P.A. were additional named Plaintiffs. Darin J. Lentner, Kane & Kane, Charles J. Kane, Harley N. Kane, Marks & Fleischer, P.A., Gary Marks and Amir Fleischer were additional named Defendants. The law firm Plaintiffs settled with Marks & Fleischer, P.A., Gary Marks & Amir Fleischer prior to trial. (Pet. Ex. 10; Resp. Ex. 20(P)).

1.7(a)(b) and (c), 4-1.8 and 4.8(g) (sic) and 4-1.4.” Stewart Tilghman Fox & Bianchi, P.A. v. Kane & Kane et al, 2008 W.L. 8833300 (Fla. 15th Jud. Cir. 2008).

Post-judgment, in April 2008, Larry Stewart, a founding member of the Stewart Firm, filed a Florida Bar complaint. Laura Marie Watson, The Florida Bar File No. 2008-51,564(17B).

At Watson’s request, a Florida Bar grievance committee voted to defer action pending appellate review of the final judgment. The Board of Governors of the Florida Bar agreed with the Grievance Committee’s recommendation. (Florida Bar “Notice of Filing,” January 14, 2014).

On May 16, 2012, the final judgment was affirmed. Kane v. Stewart Tilghman Fox & Bianchi, P.A., 85 So.3d 1112 (Fla. 4th DCA 2012).³

On October 19, 2012, a Florida Bar grievance committee found probable cause to exist that attorney Watson had violated various Rules Regulating the Florida Bar, with respect to the underlying dispute litigated before Judge Crow. (Resp. Ex.20, p.51). In November 2012, Watson was elected a circuit court judge in and for the 17th Judicial Circuit, Broward County, Florida and took office on

³ The professional association sought further review, but its petition was denied. Laura M. Watson, P.A. v. Stewart, Tilghman Fox & Bianchi, P.A., 118 So.3d 221 (Fla. 2013).

January 8, 2013. Because the Florida Bar does not have authority to maintain disciplinary action against a judge, its file was forwarded to the FJQC.

After notice of investigation and hearing, an Investigative Panel of the FJQC also found probable cause to proceed. On July 24, 2013, the Investigative Panel filed a "Notice of Formal Charges" against Watson (now a judge) relating to ethical issues exposed during the litigation before Judge Crow. The Notice essentially charged the respondent judge with (1) entering into an "aggregate settlement agreement" between clients and lawyers with conflicting interests; (2) failing to disclose conflicts inherent in the settlement agreement; (3) failing to advise clients of material facts necessary to make an informed decision regarding settlement; (4) failing to provide clients with closing statements; (5) arbitrary allocation of settlement proceeds which maximized attorneys fees to herself at the expense of other clients and lawyers; (6) keeping the actual terms of the settlement secret from clients and co-counsel; and (7) failing to hold disputed settlement funds in trust. The notice asserted violations of Rules Regulating the Florida Bar 3-4.2; 3-4.3; 4-1.4(a), (b); 4-1.5(f)(1), (5), 4-1.7(a), (b), (c); 4-1.8(a), (g); 4-8.4(a), (c); 5-1.1(f), and Canons 1 and 2A of the Code of Judicial Conduct.

Judge Watson deluged the Hearing Panel with motions geared towards delaying proceedings on charged misconduct, while simultaneously urging her

conduct was “too remote” to proceed. She contested *inter alia* the FJQC’s subject matter jurisdiction, the sufficiency and timeliness of the charges, and the manner in which this case was prosecuted. These issues were addressed in a series of orders (Order dated October 3, 2013; affirmed October 17, 2013; November 20, 2013; December 20, 2013; January 22, 2014). Suffice it to say, the Hearing Panel has subject matter jurisdiction to consider misconduct committed by an attorney who subsequently becomes a judge, the charges were timely filed (within one year of judicial service), and the judge’s focus on the conduct of others was misplaced. See Fla. Const. art. v, §12(a)(1); *In re Henson*, 913 So.2d 579, 588 (Fla. 2005); *In re Davey*, 645 So.2d 398, 410 (Fla. 1994); *In re Graham*, 620 So.2d 1273, 1275 (Fla. 1993). Judge Watson raised the same issues as affirmative defenses in her answer.

On the eve of the final hearing, Judge Watson sued the FJQC, its attorneys, and certain Hearing Panel members (individually and in their official capacity as members) in federal court for injunctive and other relief.⁴ She also moved to stay the hearing and disqualify Hearing Panel members based on her suit. These motions were denied (Order dated February 10, 2014; T. 6-7).⁵ Judge Watson also

⁴ *Watson v. The Fla. Judicial Qualification Commission, et al*, S.D. Fla. 14-60306-Civ-Cooke-Turnoff.

⁵ Federal District Judge Marcia Cooke denied injunctive relief before the final hearing commenced. (T. 10-11).

moved in limine to prevent the introduction of testimony by transcript or affidavit, which motion was granted. (T. 14-17; 50).

Judge Kerry Evander chaired the FJQC Hearing Panel, which heard the charges on February 10 through 12, 2014. Six commissioners were present during the final hearing and deliberations. In addition to Chairman Evander, the Hearing Panel included Honorable Robert Morris, Mayanne Downs, Esq., Michael Nachwalter, Esq. (ad hoc), Jerome S. Osteryoung, Ph.D. and Harry Duncanson.

Special Counsel Miles A. McGrane, III, Esq. and Ruben V. Chavez, Esq. represented the Investigative Panel. Judge Watson represented herself. She was also represented by Robert A. Sweetapple, Esq. Alexander Varkas, Jr., Esq. Jay S. Spechler, Esq. and Colleen Kathryn O'Loughlin, Esq. Lauri Waldman Ross, Esq. served as counsel to the Hearing Panel.

Pertinent pleadings are already on file with the Florida Supreme Court. The Hearing Panel hereby submits its findings of fact, conclusions of law and recommendations regarding discipline, together with a transcript of the final hearing and original trial exhibits.

Findings of Fact

Laura M. Watson was admitted to the Florida Bar in 1985. She is a Stetson law school graduate, who worked as a prosecutor (in Ft. Myers and Ft.

Lauderdale), then for Nationwide Insurance Company and Barnett Bank, before forming her own law firm in 1997. (T. 35-36). Attorney Watson was the sole owner of the professional association, which employed her husband Darin J. Lentner, did business as Watson & Lentner, and almost exclusively represented health care providers in PIP litigation. (T. 40; 285).

In the ordinary course, Watson filed individual actions on behalf of health care providers to recover specific amounts of PIP benefits from a recalcitrant insurer. Client recovery was limited to the amount of unpaid benefits, plus interest. Watson undertook representation for statutory attorney's fees recoverable from the insurer directly, with recovery contingent on success in obtaining PIP benefits. (T. 371-72). The amount of such fees varied, but substantially exceeded the amount of benefits at issue based on the amount of work required. (T. 195-96; 208; 372-75).

Watson & Lentner joined forces and pooled resources with Marks & Fleischer, P.A., and Kane & Kane (the "PIP lawyers") to represent claimants and health care providers in PIP litigation throughout the state of Florida. (T. 89-90; 286; Pet. Ex. 6). The three firms engaged in joint marketing (attending health care provider meetings, preparing legal materials for dissemination, and staffing tables with attorneys available to answer providers' questions) developing a steady

clientele. (T. 89-90).

These proceedings arose from a dispute over the methodology employed by Progressive Insurance Company ("Progressive" or the "Progressive entities") for reducing or eliminating the bills of health care providers who treated insureds under auto insurance policies. Progressive allegedly failed to establish a PPO network (by which an insurer provides a network of doctors to treat its insureds in return for bargained for rate with the doctors), but reduced health care providers' bills as though such a network existed, otherwise known as a "silent PPO." Through these and other methods, Progressive allegedly and systematically underpaid health care providers at great savings to itself. (Resp. Ex. 20(D) pp.2-3).

In order to increase pressure on Progressive, the PIP lawyers retained the law firm of Slawson Cunningham Whalen & Stewart, P.A. to initiate a bad faith case filed in the name of Drs. Fisher & Stashak, M.D., P.A., d/b/a Gold Coast Orthopedics and Gold Coast Orthopedics and Rehabilitation ("the Gold Coast case"). When Todd Stewart left the Slawson firm with the Gold Coast case, he tried to elicit the interest of the Stewart firm, founded by his father Larry Stewart. (T. 146).

Larry Stewart was admitted to the Florida Bar in 1963. He is an experienced personal injury lawyer with a national reputation, who among other things, is a

member of the American Law Institute, best-known for publishing “Restatements of Law.” (T. 58-59). Larry Stewart had previously handled complex cases involving large numbers of clients (including class actions) and understood the ethical requisites and pitfalls involved in such representation. (T. 53-56).⁶

In early 2002, Watson and other PIP lawyers met with Larry Stewart to discuss the Gold Coast case, bad faith claims, and the means by which they could force the Progressive entities to stop underpaying benefits. (T. 66-67; 157). At a second meeting, Larry Stewart discussed case management and financial arrangements for moving forward. (T. 66-67; 155-56).

PIP claims cannot be brought as class actions. Stewart’s game plan included expanding the existing Gold Coast case beyond the claim of a single doctor’s office by amendment to add plaintiffs. (T. 76; 146). The attorneys agreed that Stewart and others (“the bad faith lawyers”) would handle the legal work (including pleadings and discovery). At their insistence, the PIP lawyers (who had existing relationships with clients) would handle all client contact and communications. (T. 66-67; 152-53; 175-78).

⁶ See e.g. H. Erickson, “The Trouble with All or Nothing Settlements,” 58 U.Kan.L. Rev. 979, 982(2010)(noting problems with aggregate settlements leading too many lawyers into trouble, “rang[ing] from public criticism, civil lawsuits, and disciplinary proceedings through felony prosecutions.”).

On June 12, 2012, Gold Coast executed an "Authority to Represent-Contract of Employment" with all of the lawyers, reflecting prior discussions. All of the lawyers were employed to represent Gold Coast "in connection with any and all claims or actions for bad faith, unfair claims practice, improper claims handling and/or unjust enrichment" against the Progressive entities. (Pet. Ex. 1; T. 259-60). The lawyers were hired on a contingent fee basis, and were entitled to the greater of: (1) Florida Bar authorized contingent fee percentages; or (2) court awarded fees. (Id. at pp.1-3). Gold Coast was to receive 60% of any bad faith settlement proceeds. The remaining 40% was to be split between the bad faith and PIP lawyers, according to their work, estimated at 60/40%.⁷

In anticipation that the bad faith case would be expanded to include other plaintiffs, and might eventually be resolved by a global settlement covering all bad faith claims, the authority to represent contained the following provision:

Agreement to Divide Recovery

In the event that other individuals, firms or organizations join as plaintiffs in any claims prosecuted pursuant to this Agreement, and there is a recovery made in such action(s), either by way of judgment or settlement, or other individuals, firms or organizations participate in any settlement, then we agree to divide any such recovery among all such participants on a pro rata basis, based on the respective amount of the undersigned's

⁷ This gave the bad faith lawyers 24% of the gross bad faith recovery and the PIP lawyers 16% of the gross bad faith recovery.

actual losses due to said misconduct as related to the actual losses of each other participant. (Pet. Ex.1; T. 75-76; 155).

The authority to represent expressly excluded “claims for contract (PIP) benefits, damages for breach of contract, interest and any statutory attorneys fees.” These claims remained the province of and would continue to be handled by the PIP lawyers. (Pet. Ex. 1, p.1). The PIP lawyers told Stewart they had relationships with the PIP clients, who all wanted to pursue these bad faith claims. They pledged to secure written contingent fee agreements from their clients for the bad faith lawyers, as needed, and, in fact, secured such contracts when additional plaintiffs were added to the Gold Coast case. (T. 148-51; 172-73).

Unbeknownst to the bad faith lawyers, Watson’s professional association had a secret side deal with Gold Coast, guaranteeing Gold Coast would receive 30% of the gross bad faith recovery (50% of the plaintiffs’ 60%) regardless of the number of plaintiffs or claims involved. (T. 183-84; 261-62; 334).⁸

The bad faith lawyers subsequently amended the Gold Coast complaint (adding other theories and plaintiffs) and propounded detailed discovery. Ultimately, 36 plaintiffs brought bad faith suits against Progressive Entities (by

⁸ Judge Watson testified that Stewart always knew about this arrangement. However, the Hearing Panel credits Stewart’s testimony that he only discovered

amendment to the Gold Coast case or otherwise). (T. 75-81). These included 18 of Watson's existing PIP clients. (T. 291).

A special master was appointed in the Gold Coast case to resolve discovery disputes. After the special master ordered production of critical business records, Progressive unsuccessfully appealed this ruling to the circuit court, and thereafter sought certiorari, which was denied by the Fourth District Court of Appeal. (T. 75-76; 82-83). The pending production of court-ordered records prompted settlement overtures from Progressive to Larry Stewart. (T. 84-85).

Stewart wanted Progressive to determine the scope of any settlement, discussed this with the PIP lawyers, and whether they wanted him to limit negotiations to the Gold Coast bad faith case. (T. 85; 92). The PIP firms agreed that Stewart should try to settle the entire universe of bad faith claims held by their clients, including all "perfected" and "unperfected" claims, and authorized Stewart to proceed on this basis. As agreed, Stewart demanded \$20 million dollars from Progressive to resolve all bad faith claims. (T. 92-93; 95; 159-60).⁹

this agreement during subsequent litigation before Judge Crow. (T. 83-84; 340-41; See also Pet. Ex.10).

⁹ First party bad faith claims are generally "perfected" by the insurer's payment or agreement to pay PIP benefits to health care providers and the filing of a statutorily required "Civil Remedy Notice." (T. 92-93). See also §624.155(3)(a), Fla. Stat. (2003). "Unperfected" bad faith claims involve PIP benefits which are still disputed. (T. 93-94).

Progressive requested a list of all clients represented by the PIP lawyers with existing or **potential** bad faith claims. (T. 95). The PIP lawyers responded with a list of 441 health care provider clients, with perfected and **unperfected** bad faith claims. This number vastly exceeded the 36 named bad faith plaintiffs. (T. 95).

After much back and forth, Progressive offered \$2 million dollars to resolve just the bad faith claims, a figure Larry Stewart termed "ridiculous." (T. 96-97). Progressive then hinted to Stewart that it wished to expand settlement negotiations to include PIP claims and claims for attorneys fees (held by the PIP lawyers and not within the scope of Stewart's representation). Larry Stewart reported this to the PIP lawyers, who authorized expanded negotiations, furnished settlement numbers to Stewart, and agreed to increase the percentage of funds due the bad faith lawyers for additional work. (T. 97; 176-77). The increased fee did not affect recovery by the bad faith claimants, who were still due 60% of any bad faith recovery. (T. 97-98).¹⁰

Stewart emphasized to the PIP lawyers that settlement had to be carefully staged, with bad faith claims resolved first. Otherwise, Progressive's payment or agreement to pay outstanding PIP claims would automatically perfect otherwise

¹⁰ In exchange for performing this additional work, the bad faith lawyers' fees from bad faith recovery increased to 30% of gross, while the PIP lawyers' fees decreased to 10% of the gross. (T.97-98).

unperfected bad faith claims and “create good causes of action,” inimicable to Progressive. Settlement further required “complete [client] transparency.” (T. 99-100). Stewart explained the care which needed to be taken during settlement negotiations with Progressive, because of conflicting types of claims and claimants:

[I]n the bad faith claims, the clients would be receiving 60 percent of the recovery. Whereas in the PIP claims, all they would get is their unpaid benefits. And as explained to me by the PIP lawyers, that meant about 90 percent of what was recovered in PIP claims amounted to attorneys fees that the PIP lawyers kept. **So there was a disparity between what the clients got depending upon the type of claim, and that’s a conflict that you can’t put that all in the same pot and settle it as one complete mass of stuff.** (T. 99-100; emphasis added).

On April 19, 2004, Stewart attended mediation. At the outset, he informed Progressive that “If we settle the bad faith, we’re here to also talk about the PIP, if you want to do that today.” Settlement talks never progressed that far. (T. 161). The mediation impassed when Progressive offered only \$3.5 million dollars for the bad faith claims. (T. 101-03).¹¹ Stewart duly reported Progressive’s offer to the

¹¹ The case was mediated by John Upchurch, Esq. Progressive was represented by Fran Anania, Esq. Drs. Fishman and Stashak (Gold Coast) attended, as did William Hearon (another bad faith lawyer) and Darin Lentner from Watson & Lentner. (T. 101).

PIP lawyers, along with the mediator's belief that Progressive actually had \$6 to 7 million dollars of authority, but was unwilling to offer it at mediation. (T. 103).

On Friday, April 23, 2004, just four days post-mediation, Watson e-mailed Stewart the following message:

Larry: Did we get a hearing date for the Motion to Compel/Sanctions? We need to keep our foot on their throat and not let them them lose (sic). Let me know when the new date is set. Laura (T. 106; Pet. Ex. 2).

In fact, a hearing was scheduled on a motion for sanctions against Progressive for failure to produce court-ordered documents. However, on or about Friday, May 14, 2004, and prior to the scheduled hearing, Progressive contacted the PIP lawyers **directly** about resolving the case. Progressive made it a condition of meeting that **none** of the bad faith lawyers attend. (T. 106; 392).

Without disclosure to or discussion with the bad faith lawyers, the PIP lawyers met with Progressive and swiftly hammered out a settlement, reflected by a "Memorandum of Understanding" ("MOU") executed May 17, 2004 by the Progressive Entities, Laura Watson, on behalf of the Professional Association and its clients, and the other PIP lawyers. (Pet. Ex. 3). Watson had never previously handled a bad faith claim, or a case involving multiple plaintiffs, and "didn't know anything about bad faith." (T. 333; 342).

The MOU contemplated the “global settlement of all claims” against the Progressive Entities, including all pending lawsuits, all perfected, unfiled bad faith claims actually asserted, and bad faith claims that could be perfected from January 1, 2001 through the date of the MOU. Master case lists were to be provided by each PIP firm within 4 days, and attached to the MOU as exhibits. (Pet. Ex. 3, p.2 & n.1).

Progressive agreed to pay \$14.5 million dollars, allocated as follows: \$4 million to Laura M. Watson, P.A. d/b/a/ Watson & Lentner on behalf of the law firm and its clients; \$5 million to Marks & Fleischer, P.A. on behalf of the law firm and its clients; \$5.5 million to Kane & Kane on behalf of the law firm and its clients. **None of the settlement proceeds were allocated to bad faith claims.** However, the PIP firms and their clients were required to release all perfected and unperfected bad faith claims, claims for unfair claims handling practices, compensatory and punitive damages, and related attorneys fees and costs. (Pet. Ex. 3). To trigger payment under the MOU, the PIP lawyers had to deliver releases from the Gold Coast plaintiffs and 90% of their other clients. (Pet. Ex. 3).

The PIP firms also agreed to “defend, indemnify and hold The Progressive entities harmless” from all claims listed on exhibits to the MOU, and any claims which the bad faith lawyers could assert for attorney’s fees and costs arising from

the Gold Coast case. The terms of the MOU were “strictly confidential,” not to be revealed “to any person, firm or corporation or other entity (except for disclosure by a party to its accountants).” (Pet. Ex. 3)

Shortly after execution of the MOU, the PIP lawyers advised Stewart by email that “There’s been some developments in the case we have to discuss and we need to have a meeting.” (T. 106-08). At a meeting in Stewart’s office days later, Watson and the other PIP lawyers announced that the Gold Coast case was settled. They refused to provide a copy of the MOU to their co-counsel, or disclose any details of settlement, except the fact that zero funds were allocated to the bad faith claims. (T. 108-10).

Stewart immediately told the PIP lawyers that the settlement was unethical, and violated the “aggregate settlement” rule. (T. 120-21). With no explanation, the PIP lawyers offered Larry Stewart \$300,000 for his work. Stewart showed them the door. (T. 109-110; 118-19; 191).

On May 27, 2004, ten days after the MOU’s execution, Watson and Lentner forwarded a “letter agreement” for signature by the firm’s PIP clients, attaching a release authored (at least in part) by Watson. (Pet. Ex. 8; T. 321-22; 338). The letter agreement stated only:

As we discussed, the Progressive Entities wish to resolve
all of your PIP and related claims, including all pending

lawsuits and all perfected, unfiled bad faith claims that our law firm has asserted, and all bad faith claims which our firm could perfect against the Progressive Entities since January 1, 2001 through May 17, 2004. **You have agreed to accept \$500**, in exchange for a general release of all claims which you have against the Progressive Entities, and a dismissal with prejudice of all suits that we filed on your behalf. (Pet. Ex. 8).

In bold print above the signature line, the letter agreement added that:

THIS SETTLEMENT AND ITS TERMS ARE CONFIDENTIAL. THAT MEANS IT IS NOT TO BE DISCUSSED WITH ANYONE BUT YOUR ACCOUNTANT. (Pet. Ex. 8).

Watson's letter failed to disclose to her PIP clients that all claims had been settled for \$14.5 million dollars, that these clients were receiving nothing to release their bad faith claims (due to the PIP firms' allocation of proceeds), failed to disclose the amount of or allocation of proceeds to PIP attorneys' fees, or the value of the bad faith claims released. (Pet. Ex. 8; T. 321-24; 330-31). The bolded language directed clients not to discuss settlement terms with anyone, but their accountant, which obviously excluded consulting each other.

On May 28, 2004, Larry Stewart wrote Gold Coast directly, requesting copies of the settlement documents on the basis that:

[W]e were informed by Darin Lentner via e-mail last week that the law firms of Marks & Fleischer, Kane & Kane and Watson & Lentner had apparently reached a secret settlement with Progressive that "substantially

affected the Bad Faith Case.” This settlement has been negotiated without our knowledge, notwithstanding our continuous and ongoing efforts on your behalf, about which we have kept the three firms fully informed. Both in writing and verbally we have repeatedly requested that those firms provide us with information regarding the purported settlement, the most recent having occurred yesterday afternoon. Those firms have refused to tell us anything about the settlement except to tell us that the bad faith case had been settled but no money is being received for the bad faith claims. Given what has already been offered on the bad faith claims and the potential impact of this new evidence, it appears that your rights may have been compromised or even sacrificed. (Resp. Ex.20(E)).

On June 1, 2004, the PIP lawyers placed the 36 named bad faith plaintiffs on notice of their disagreement with the Stewart firm. (Resp. Ex. 20, p.14 & (F)).

On June 16, 2004, Watson and Lentner faxed letters to the 36 named bad faith plaintiffs detailing a confidential settlement offer from Progressive. These clients were also instructed not to “**disclose, publicize or discuss**” the settlement offer with anyone other than “**your accountant.**” (T. 299-300; 319; Pet. Ex. 7). This kept the named plaintiffs from discussing and comparing notes with each other. Watson & Lentner advised the named plaintiffs that they had attempted to work out differences with Larry Stewart and “alleviate... his concerns” by informing Progressive they were “unable to proceed forward without a specific amount being offered for the Bad Faith Case.” Upon further negotiations,

Progressive had offered \$1.75 million to settle the Gold Coast case. (Pet. Ex. 7).

Watson & Lentner promoted this settlement as “fair” and “a good result” on the basis that Stewart’s efforts during mediation “centered entirely on attempting to resolve the potential claim of 496 health care providers,” i.e. the “entire universe of bad faith claims,”¹² and “several health care providers with the largest percentage” of bad faith claims had objected to this tactic which “diluted” their interest and refused to allow additional plaintiffs to be added to the bad faith case. Watson & Lentner further voiced “concern that the Stewart Firm was attempting to settle claims for health care providers who never met with, spoke to or even heard of the Stewart Firm...” (Pet. Ex. 7, p.2).

Watson & Lentner then attempted to show that the \$1.75 million dollars that they “convinced Progressive to offer” was better than the \$3.5 million dollar offer already made to Stewart at mediation. They urged that “under the \$3.5 million offer Stewart alludes to in his prior letter, you the provider would take less, but his fee would double.” (Pet. Ex. 7, p.3).

In fact, as Watson and Lentner acknowledged to the 36 named plaintiffs (but not their other clients), the \$1.75 million dollar offer only yielded better results by limiting recovery to the named 36:

¹² Precisely what the PIP lawyers had instructed and authorized Stewart to do.

Rather than 496 providers splitting \$3.5 million, we have convinced Progressive to offer \$1.75 million to the named plaintiffs of which you are one. **That settlement would be distributed between the 36 named plaintiffs** on a pro rata share in proportion to the number of claims each of the named plaintiffs had. (Pet. Ex. 7, p.3, emphasis added).¹³

Without disclosing their side-deal with Gold Coast, Watson & Lentner further wrote that “each provider had previously been served with a formal proposal for settlement/offer of judgment by Progressive,” and should be “guaranteed at least that amount.” They proposed a new distribution formula whereby “each named plaintiff be given the amount of the proposal for settlement/offer of judgment previously offered” and the remainder of money “distributed based on the number of cases each named provider has.” (Pet. Ex. 7). This new formula advantaged Gold Coast, which had the greatest number of cases. (T. 183-84; 261-62; Pet. Ex. 10).

Judge Watson testified at the hearing that Darin Lentner had a verbal “in depth discussion” with the 36 named bad faith clients about the amounts they were to receive, that she wasn’t trying to keep anything secret, that the June 16, 2004 letter adequately explained the settlement, and was the equivalent of a closing

¹³ Watson & Lentner compared recovery of \$3.5 million split between 496 health care providers (yielding \$875 per claim, and \$1.4 million in attorneys fees), with

statement. (T. 294; 296-97; 313-14; 362-63). This testimony is rejected as inherently incredible.

Judge Watson's June 16, 2004 letter failed to disclose that (1) Progressive had already agreed to pay \$14.5 million to settle all claims; (2) that Progressive offered no new money to resolve the bad faith claims; and (3) that the PIP firms had simply reallocated \$1.75 of the original \$14.5 million from PIP to bad faith claims. These facts are evidenced by an "Amendment" to the MOU, executed by the Progressive Entities, Watson and the other PIP lawyers, that same day. (Pet. Ex. 4).

The Amendment made no change to the \$14.5 million dollar bottom line to be paid by Progressive, but deleted the second "Whereas Clause" reflecting the parties' "contemplated global settlement of all claims." It reallocated \$1.75 million dollars to the Gold Coast case, and adjusted the amounts paid to each PIP firm, accordingly. (Pet. Ex. 4). The \$14.5 million dollar settlement was reallocated as follows: \$3,075,000 to the Watson law firm and clients, plus a separate payment of \$1.75 million to settle the Gold Coast case, \$4,380,000 to Marks & Fleischer, P.A. and its clients, and \$5,250,000 to Kane & Kane and their clients. (Pet. Ex. 4).

recovery of \$1.75 million split between 36 claimants (yielding \$10,680 per claim and \$700,000 in attorneys fees). (Pet. Ex. 7, p.2).

This reallocation did not matter to the Progressive entities, which disclaimed any “responsibility for the calculation of the disbursements and/or the disbursement of the funds paid pursuant to the MOU.” (Pet. Ex. 4, p.3, para.4). However, it mattered a great deal to Watson and the PIP lawyers, who were attempting to fend off conflict of interest charges made by Larry Stewart.

The PIP firms and their clients were required by the Amended MOU to release all perfected and unperfected bad faith claims, claims for unfair claim handling practices, compensatory and punitive damages, and related attorneys fees and costs. (Pet. Ex. 4).

The PIP firms also agreed to “defend, indemnify and hold the Progressive entities harmless” from: (1) all claims for underlying benefits, bad faith and unfair claims handling practices, attorneys fees and costs; and (2) any claims which the bad faith lawyers asserted for attorneys fees and costs arising out of their prosecution of the Gold Coast action. (Pet. Ex. 4, p.3).

An “amended letter agreement” reflecting the new allocation was signed by Laura M. Watson, President, on behalf of the Professional Association and “on behalf of the Watson clients.” (Pet. Ex. 4). Similar amended letter agreements were signed by the other PIP law firms. Id.

The Stewart firm (which still represented the bad faith claimants, and knew

how to handle complex settlements) was given no notice of and was once again excluded from negotiations. (T. 131-32). Watson's PIP clients were not given copies of the MOU, Amended MOU, or the June 16, 2004 letter, were not told about the full amount recovered from Progressive, its allocation, or the fact that they had been disenfranchised from receiving bad faith settlement proceeds by their own lawyers. (T. 300-03).

On June 22, 2004, acting on behalf of the Gold Coast plaintiffs, Watson discharged the Stewart firm and other bad faith lawyers "effective immediately," instructed them to cancel pending hearings, and to withdraw. Watson thereafter dismissed the Gold Coast case with prejudice. (Resp. Ex. 20(M); T. 385-86).

The bad faith lawyers filed charging liens and promptly sued the PIP lawyers. (Resp. Ex. 20(N); Pet Exs. 5, 10). Watson & Lentner received two payments from Progressive for \$1,750,000 and \$3,075,000, respectively. (T. 348-49). The bad faith lawyers placed them on notice of Rule 5-1.1(f), R.Reg.The Fla.Bar (2003), and disputed the PIP lawyers' right to receive and retain every dollar of attorneys fees paid as part of the Progressive settlement. (Pet. Ex. 5). Watson & Lentner confirmed it had established accounts holding \$1.75 million (the amount allocated to settling the Gold Coast case), and \$2,767,000 (the amount allocated by the Watson firm to its PIP fees). (Pet. Ex. 5).

The Stewart firm agreed to the release of funds due clients, but demanded that the remainder be frozen. They sought an injunction, which was denied on grounds that they had an adequate remedy at law. (T. 187; 308-09). Thereafter, Watson disbursed all of the funds she unilaterally allocated to PIP fees to her professional association. Funds arbitrarily allocated to the Gold Coast settlement remained escrowed. (T. 308-09).

After a 10 week trial, Judge Crow found that the allocation of zero to bad faith claims in the initial MOU was done by the PIP lawyers so they could claim 90% of the settlement proceeds for their own attorneys fees, that the (June 16, 2004) letter to the Gold Coast plaintiffs failed to disclose critical information, and that the methodology used by the PIP firms to create the settlement “violated a number of Rules, including Rules 4-1.5(f)(1) and (5), 4-1.7(a), (b) and (c), 4-1.8 and 4-1.8(g) and 4-1.4 of the Rules of Professional conduct.” (Pet. Ex. 10, p.10).

Thereafter, the PIP firms “unilaterally and arbitrarily” allocated \$1.75 million to the Gold Coast case by amendment after objections were raised to the settlement. Under the amended MOU, approximately 400 clients who were not Gold Coast plaintiffs “were to still receive nothing for their unfiled perfected and potential bad faith claims, although they were required to release their claims.” These clients were not notified about the specifics of the settlement or the separate

side deal with Gold Coast. The PIP firms gave conflicting reasons for the reallocation, but the “real reason” was to maximize their fees, limit the bad faith lawyer’s fees, while unsuccessfully attempting to cure serious ethical flaws in the settlement procedure. (Pet. Ex. 10, pp. 10-11).

The FJQC Hearing Panel concurs in Judge Crow’s findings, and determines the facts alleged in the “Notice of Formal Charges” were proven by clear and convincing evidence. The Hearing Panel’s factual findings are based on its independent review of evidence, observations, and credibility determinations of the witnesses, which meet the “clear and convincing” burden of proof.

CONCLUSIONS OF LAW

“Loyalty is an essential element in the lawyer’s relationship to the client.” R.Reg.Fla.Bar. 4-1.7 (2003), Comment. See Young v. Achenbauch, 2014 WL 1239965, *6 (Fla. 2014). Rule 4-1.7(a) prohibits a lawyer from representing clients with directly adverse interests unless the lawyer reasonably believes the representation will not adversely affect the lawyer’s responsibilities to and relationship with each client and each client consents after consultation.

Rule 4-1.7(b) prohibits a lawyer’s representation of a client if the lawyer’s exercise of independent judgment in that representation may be materially limited “by the lawyer’s responsibilities to another client or a third person, or by the

lawyer's own interest" unless the lawyer reasonably believes the representation will not be adversely affected and the client consents after consultation.

Comments to the 2003 rule warn that "When more than 1 client is involved, the question of conflict must be resolved as to each client," that lawyers' own interests are not permitted to have an adverse effect on a client's representation, and that lawyers may not represent multiple parties to a negotiation "whose interests are fundamentally antagonistic to each other." In addition, Rule 4-1.8 (the "Aggregate settlement rule") in effect at the time¹⁴ provided:

(g) Settlement Claims for Multiple Clients. A lawyer who represents 2 or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilt or nolo contendere pleas, **unless each client consents after consultation, including disclosure of the existence and nature of all the claims or pleas involved and the participation of each person in the settlement.** (emphasis added).

Watson and the others hired Larry Stewart, who warned them in advance that the PIP claims and bad faith claims were adverse, requiring careful handling throughout settlement negotiations, with full client transparency. When Progressive dangled a pot of money, ethical restraints were swept aside. Watson

¹⁴ Rule 4-1.8(g), Rules Regulating the Fla. Bar. (2003). It was amended in 2006 to add the requirement of informed consent by each client "in a writing signed by the client."

and the PIP lawyers (at Progressive's insistence) excluded the only attorney sufficiently experienced and knowledgeable to see them through settlement negotiations, and reached a quick (and ethically flawed) settlement agreement. The MOU resolved antagonistic, directly adverse claims of multiple parties for \$14.5 million dollars in a methodology favoring the PIP lawyers. The antagonistic, directly adverse claims include:

- (1) PIP clients due benefits, who also had a 60% interest in bad faith proceeds for their own perfected or unperfected claims;
- (2) The 36 named plaintiffs in the Gold Coast bad faith case v. other claimants with perfected and unperfected bad faith claims;
- (3) The Gold Coast plaintiff (with a secret side deal maximizing its recovery) v. other named plaintiffs;
- (4) The Gold Coast plaintiff (with the secret side deal) v. all other claimants with perfected and unperfected bad faith claims;
- (5) The PIP clients due their benefits v. the PIP attorneys' interest in recovering their own attorneys fees;
- (6) All clients due full disclosure v. Progressive and the PIP firms' interest in confidentiality; and
- (7) The PIP firms' agreement to defend and indemnify their adversary (Progressive) from claims by their own clients.

Watson never told her PIP clients that Progressive paid funds to settle the bad faith claims, and they weren't allowed to participate in that recovery, despite the fact they were required to release these claims. (T. 303; 323). Instead **she**

decided that these clients "had no interest in the [bad faith] case." (T. 303; 327; 368). She also decided her clients in the bad faith case "did not have any duty to pay or include these unknown people who may or may not someday have a claim." (T. 327). These "unknown people" were not only known to Watson, they were also her clients. (T. 311).

Watson failed to disclose to her PIP clients the following information material to their decision to settle:

- (1) the total amount of the settlement (\$14.5 million dollars);
- (2) the total amount to be divided between the Professional association and these clients (\$4 million dollars initially, reduced to \$3,075,000 by amendment);
- (3) the amount of settlement proceeds allocated to PIP attorneys fees;
- (4) the value of the bad faith claim each was releasing;
- and
- (5) the conflicts of interest detailed.

Watson failed to disclose to her bad faith clients the following information material to their decision to settle:

- (1) the total amount of settlement (\$14.5 million dollars);
- (2) that Progressive offered no new money to resolve the bad faith claims;
- (3) that the PIP firms had arbitrarily allocated \$1.75 million out of the total \$14.5 million to the bad faith claims;
- (4) that she had a secret side deal with Gold Coast;
- and

(5) the conflicts of interest detailed.

Watson failed to disclose to all clients that the methodology of allocating funds between PIP and bad faith claims, skewed the settlement in favor of the PIP lawyers, and substantially decreased the funds available for distribution to clients. The Initial MOU allocated the entire \$14.5 million dollars to PIP claims. The Amended MOU allocated \$12,750,000 to PIP claims and only \$1,750,000 to bad faith claims.

From the reallocated proceeds, the PIP firms ended up taking \$10,960,000 in PIP fees, plus their portion of the Gold Coast attorneys fees, and costs. (Pet. Ex. 10).¹⁵ Solely by way of example, if \$4.5 million had been allocated to PIP claims, and \$10 million allocated to bad faith claims, the PIP claimants would still have received all their benefits, and \$6 million would have been available from the bad faith settlement for distribution to clients. However, the PIP firms would have received a substantially reduced amount of attorneys fees.

The Hearing Panel finds it significant that the MOU used a methodology which would provide the greatest amount to PIP attorneys fees, was modified after the meeting with Stewart in an effort to “save” an ethically flawed agreement, and

¹⁵ Marks & Fleischer, P.A. settled with the bad faith lawyers and paid them a portion of the funds. Judge Crow ordered the remaining PIP firms to pay the bad faith lawyers another portion.

the modification still used a methodology skewed towards the PIP lawyers. Most importantly, Watson's clients were kept in the dark about matters they were entitled to know to make an informed decision about the settlement, while "confidentiality" and non-disclosure provisions kept them from communicating with each other.

Watson also entered into an undisclosed side deal with Gold Coast, contrary to the interest of the other bad faith claimants. This type of arrangement has led to lawyer discipline, including disbarment. See The Florida Bar v. St. Louis, 967 So.2d 108 (Fla. 2007)(secret engagement agreement to represent Dupont, while representing clients against Dupont in Benlate litigation); The Florida Bar v. Adorno, 60 So.3d 1016 (Fla. 2011)(settlement agreement to divide \$7 million between a handful of clients, which was hidden from a putative class, through a non-disclosure agreement).

By the facts detailed, attorney Watson violated R.Reg.Fla. Bar 3-4.2 (violating Rules of Professional conduct); 3-4.3 (commission of acts contrary to honesty or justice); 4-1.4(a)(failing to keep clients informed about the status of a matter); 4-1.4(b)(failing to explain matters to the extent reasonably necessary to permit clients to make informed decisions regarding the representation); 4-1.5(f)(1)(failing to provide written statements to bad faith clients stating the

outcome of the matter, the remittance to the client, and the method of its determination); 4-1.5(f)(5)(failing to provide closing statements to bad faith clients reflecting an itemization of costs and expenses, together with the amount of fees received by participating lawyers or firms); 4-1.7(a)(representing clients with directly adverse interests); 4-1.7(b)(representing clients where representation was materially limited by lawyers' responsibilities to other clients, third persons and the lawyers' own interests); 4-1.8(g)(making an aggregate settlement of the claims of two or more clients without requisite disclosure or consent); 4-8.4(a)(violation of the Rules of Professional conduct by herself, and through the acts of others); 4-8.4(c) (engaging in conduct involving deceit); and 5-1.1(f)(failing to treat disputed funds as trust property).

There was no clear and convincing evidence presented, and Judge Watson is **not guilty** of violating Rule 4-1.7(c)(when representation of multiple clients in a single manner is undertaken, consultation shall include explanation of the implications of common representation, and the advantages and risks involved sent). Seven conflicts arose during settlement negotiations, not at the time of Watson's initial retention and consultation.

RECOMMENDATION OF REMOVAL

The Florida Constitution vests jurisdiction in the FJQC Hearing Panel to

recommend discipline for judges regarding misconduct “before or during judicial service” if a complaint is made no later than one year following judicial service. Fla.Const.art.v,§12(a)(1). “Misconduct committed by an attorney who subsequently becomes a judge falls within the subject matter jurisdiction of [the Florida Supreme] Court and the JQC, no matter how remote.” Inquiry Concerning Henson, 913 So.2d 579, 588 (Fla. 2005); Inquiry Concerning Davey, 645 So.2d 398, 410 (1994). JQC Proceedings are constitutionally authorized for the alleged misconduct of a judge during the time she was a lawyer. Inquiry Concerning Henson, 645 So.2d at 410. There is thus no “escape to the bench” for lawyers who violate the Rules Regulating The Florida Bar.

Discipline includes reprimand, fine, suspension with or without pay, or lawyer discipline. The Hearing Panel may also recommend removal of any judge whose conduct “during term of office or otherwise” demonstrates present unfitness to hold office. Fla.Const.art. v, §12(c)(1).

Fitness to hold office requires the examination of misconduct from two perspectives: (1) its effect on the public’s trust and confidence in the judiciary as reflected in its impact on the judge’s standing in the community; and (2) the degree to which past misconduct points to future misconduct fundamentally inconsistent with the responsibilities of judicial office. Inquiry Concerning Sloop, 946 So.2d

1046, 1055 (Fla. 2006).

Attorney Watson's conduct violated Florida Bar Rules during the time she was a lawyer. However her present "fitness" to hold judicial office necessarily implicates Judicial Canon 1 (requiring judges to personally observe high standards of conduct to preserve the integrity and independence of the judiciary) and Judicial Canon 2 (requiring judges to act at all time in a manner that promotes public confidence in the judiciary's integrity and impartiality). See Inquiry Concerning Sloop, 946 So.2d at 1055-56; Inquiry Concerning Henson, 913 So.2d at 582 (those appearing before a judge and public at large cannot have confidence in a judge who committed serious, flagrant violations of ethical rules).¹⁶ Attorney Watson committed this type of serious, flagrant violations. The Hearing Panel is likewise concerned with Judge Watson's present lack of candor and judgment, and with her present inability - or unwillingness - to square her own conduct with the rules governing the practice of law.

Judge Watson delivered her own opening statement, insisting she had "done nothing wrong," that Judge Crow found she'd done nothing wrong, and denied that Judge Crow found she violated any ethical rules. (T. 36-38). She argued that Judge

¹⁶ Without considering the propriety of such a motion in JQC proceedings, Judge Watson's motion for summary judgment on these Canons, based on Inquiry Concerning Kinsey, 842 So.2d 77, 85 (Fla. 2003), is therefore denied.

Crow's judgment against the professional association for "unjust enrichment," "sound[ed] bad," but "all it means is you did not have a written agreement with someone but somehow you benefited from their actions and...owe them" (T. 39-40). After years of litigation and the benefit of hindsight, she still voiced confusion "about what it is I've done [wrong]." (T. 312).

Judge Watson's testimony at the final hearing conflicted with her own records. She denied that Gold Coast's "agreement to divide recovery" contemplated adding plaintiffs, stating "I don't read it that way," claimed Gold Coast agreed to amend its complaint to add only ten claimants, when the agreement contained no such limitation (Pet. Ex. 1; T. 334-35), and denied that the Progressive settlement required her to defend or indemnify Progressive from claims made by her own clients. (Pet. Ex. 1; T. 334-35; 337-38). She contended the MOU was a settlement "proposal" which "fell apart," its indemnity language was changed by amendment, and the amendment indemnified Progressive only against claims from Larry Stewart and the bad faith lawyers. (T. 378).

In fact, the MOU was amended "only as specifically provided," otherwise remained "in full force and effect," and the amended MOU was made effective *nunc pro tunc* to May 17, 2004 (the date of the original MOU's execution). (Pet. Ex. 4, p.4, ¶5). The Amended MOU expressly required the PIP firms to "defend,

indemnify, and hold the Progressive entities harmless from all claims for underlying benefits, bad faith, and unfair claim handling practices...” (Pet. Ex. 4, p.3, ¶1). After initial denials and vacillation, Judge Watson had to concede that this language required her to defend and indemnify Progressive from claims brought by her own clients:

Q. [T]his says you will indemnify them from a bad faith claim. So if you had a client that wanted to pursue a bad faith claim for 50, a hundred thousand dollars, were you agreeing to Progressive that you would defend Progressive against your client’s claim?

A. The way it reads, yes. (T. 381-82).

In her defense, Judge Watson offered three unimpeachable character witnesses. Thomas Lynch, a veteran Broward County Circuit Judge, testified that he’s known Laura Watson professionally more than 25 years, that she frequently appeared before him, and he admired her quite a bit. He characterized her reputation as “Exceptional, hard-working,” with tremendous research ability, who “doesn’t miss a trick.” He had “never heard one problem with her ethically,” voiced the opinion she was “very fit to serve,” and that he was proud to serve with her. (T. 444-45; 447). However, Judge Lynch did “not really” understand the case against Judge Watson, which was “too complicated.” (T. 446-47).

Terrence O’Connor, a Broward County attorney, has known Watson

personally since childhood. He had not had the opportunity to observe her much as a lawyer (only at social events), but opined that her reputation in the community as a lawyer was “tremendous” her character “top notch,” and she was ethical “as far as I know.” He thought she was “a great judge.” (T. 468-70).

John P. (Jack) Seiler, a lawyer, former member of Florida’s House of Representatives, and current Ft. Lauderdale Mayor, is friends with Judge Watson, whom he has known since high school. (T. 554-56). He is familiar with Watson’s legal work first-hand, opined she was an “incredibly hard-working” excellent lawyer, and a person “with integrity” and the “highest ethics.” Mayor Seiler represented Darin Lentner in the litigation before Judge Crow, and testified that his involvement did not affect his opinion. In the brief time she’s been on the bench, the feedback he’s gotten about Judge Watson has been “one of a very competent attorney, very competent judge” with “a very good judicial demeanor.” (T. 560-61).

The Hearing Panel has given due consideration to all of this character evidence. However, it cannot overcome the serious, egregious violations at issue. See e.g. Inquiry Concerning Henson, 913 So.2d at 593 (and cases collected)(previously removing judges “despite strong character evidence or an unblemished record where their misconduct was fundamentally inconsistent with

the responsibilities of a judicial office or struck at the heart of judicial office.”)

Judges are held to stricter ethical standards than lawyers because more rectitude is expected of them. In re Lamotte, 341 So.2d 513, 517 (Fla. 1977). Judge Watson’s present lack of understanding of the Rules Regulating the Florida Bar, and the most basic ethical obligations imposed on lawyers, amply demonstrates “present unfitness” to serve.

Judge Watson’s counsel made an impassioned plea that the events at issue were isolated and remote, and that “We grow from our mistakes.” (T. 641-42). However, this case does not involve a “look back” into the judge’s private life or high school transgressions (T. 634-35; 641-42), but violations of fundamental rules governing lawyers. Judge Watson, further, admits no “mistakes,” let alone learning from them.

At its core, this case is about greed. “Any large pot of money can create temptation, just as any aggregate settlement can trip up unwary lawyers.” H. Erickson, 58 U.Kan.LRev. at 983. Temptation overrode Judge Watson’s ethics, despite advance warning. She sold out her clients, her co-counsel, and ultimately herself. This conduct is “fundamentally inconsistent with the responsibilities of judicial office,” and mandates removal.

The vote of the Hearing Panel on guilt, as well as the recommended

discipline has been determined by an affirmative vote of at least two thirds of the six hearing panel members, in compliance with Fla. Const. art. v, §12(b); FJQC Rule 19.

Dated this 15th day of April, 2014.

FLORIDA JUDICIAL QUALIFICATIONS
COMMISSION

By: /s/ Honorable Kerry Evander
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EXHIBIT I

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January 23, 2015

Paralegals:
Cynthia J. Bailey, CP, FCP, FRP
Deborah Smith, CP, FRP
Jamie Arden, FRP

SENT VIA E-MAIL

Henry M. Coxe, III, Esquire
BEDELL, DITTMAR, DEVAULT, PILLANS & COXE, P.A.
The Bedell Building
101 East Adams Street
Jacksonville, Florida 32202

Re: Case No.: SC13-1333; Judge Laura M. Watson

Dear Hank:

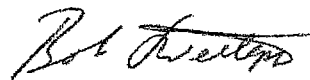
It was a pleasure speaking with you the other day. As I explained, this matter has become very disturbing.

Enclosed is a sampling of some of the emails I have since obtained that were clearly responsive to my subpoena, but were not provided.

Mr. Stewart was the main witness called by the JQC. These emails should have been available to support my discovery motions and for examination and cross of Mr. Stewart. I have located numerous other withheld emails that I am reviewing.

The extent of Mr. Stewart's involvement with the Bar prosecution is alarming. I am pursuing a public records request against the Bar. In the meantime please advise of all responsive emails that were withheld by the Bar and advise what the Bar intends to do about this failure to comply with the previous subpoena.

Very truly yours,



ROBERT A. SWEETAPPLE

RAS:cjb
Encl.

From: Larry Stewart
To: 'Kenneth L. Marvin'
Subject: RE: 2004 15.55
Date: 10/31/2013 03:07 PM

Thx Is there anything I can cite to where this would be found?

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Wednesday, October 30, 2013 11:38 AM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: 2004 15.55

I was able to find the 2004 version of 15.55. It did not exist is 2003

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

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----- Forwarded by Kenneth L. Marvin/The Florida Bar on 10/30/2013 11:35 AM -----

From: Ramon Chavez/The Florida Bar
To: Kenneth L. Marvin/The Florida Bar@FLABAR
Date: 10/30/2013 11:32 AM
Subject: New Document

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to

anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart
To: 'Kenneth L. Marvin'
Subject: RE: SBP 15.55
Date: 10/30/2013 10:23 AM

What's so strange is that Respondents' counsel argued that in 2004 there was no deferral "language" in the Rules and that it was not added until 2008. In other words he was saying that the Bar couldn't defer. Maybe he didn't understand or was simply trying to confuse the Referee. I haven't had a chance to review the various amendments to the Rules but it would seem that if there was a SBP in effect then there also should have been a Rule.

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Wednesday, October 30, 2013 9:27 AM
To: Larry Stewart
Subject: RE: SBP 15.55

Yes, there was a deferral policy in place before 2005 and with slight changes continues today.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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From: Larry Stewart <lsstewart@stflaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>
Date: 10/30/2013 09:13 AM
Subject: RE: SBP 15.55

So I take it would be fair to say that, in substance, there was a SBP for deferral of Bar cases pending the outcome of underlying litigation that pre-dated the PIP lawyers cases. Do you agree?

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Wednesday, October 30, 2013 8:27 AM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: SBP 15.55

Larry,

We used to receive annual hard copies of the SBPs but now they are on-line. I was

able to find a 2005 hard copy and below is that year's version of 15.55

In that year, even though the policy is labeled "deferral", the verbiage dictates that we would close the file. The most recent change places the file on monitor status reflecting a true deferral and not a closure subject to re-opening.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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----- Forwarded by Kenneth L. Marvin/The Florida Bar on 10/30/2013 08:09 AM -----

From: Ramon Chavez/The Florida Bar
To: Kenneth L. Marvin/The Florida Bar@FLABAR
Date: 10/30/2013 08:05 AM
Subject: New Document

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From: Kenneth L. Marvin
To: Larry Stewart
Subject: RE: SBP 15.55
Date: 10/30/2013 09:27 AM

Yes, there was a deferral policy in place before 2005 and with slight changes continues today.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

✓ Larry Stewart ---10/30/2013 09:13:07 AM---So I take it would be fair to say that, in substance, there was a SBP for deferral of Bar cases pend

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To: "Kenneth L. Marvin" <kmarvin@flabar.org>
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Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: SBP 15.55
Date: 10/30/2013 08:27 AM
Attachments: 00ric-4h.pdf

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out-of-pocket expenses incurred in connection with disciplinary investigations.

- 15.50 Administration of Admonishments.** The Rules Regulating The Florida Bar authorize the administration of admonishments before the grievance committee, before a referee, before the Supreme Court of Florida or before the board of governors. It is the policy of The Florida Bar to request that all admonishments be administered other than by appearance before the board of governors. However, recognizing that if circumstances exist to warrant administration before the board of governors, the board authorizes same upon proper explanation satisfactory to the board of governors member designated to review the actions of that particular committee.

In the event of administration by appearance before a grievance committee, the admonishment may be administered by the chair or vice chair of the grievance committee or the board of governors member designated to review the actions of that particular committee. In any event, a prepared text of the admonishment shall be drafted by bar counsel and filed as a memorandum of administration of the admonishment. A copy of the prepared admonishment shall be served on or made available to the respondent.

15.55 Deferral of Disciplinary Investigation During Civil or Criminal Proceedings

As a general rule, disciplinary investigations should be conducted with dispatch. However, because some individuals may attempt to use the disciplinary process as a tool to obtain leverage in a civil proceeding that is pending in court, or a criminal defendant may attempt to manipulate the trial process by interjecting frivolous allegations of unethical conduct against prosecuting or defense counsel, there are instances in which the disciplinary process should subjugate itself to the civil or criminal courts.

The Supreme Court of Florida has ruled that the disciplinary process and proceedings are not to be used as a substitute for civil proceedings and remedies. *See, The Florida Bar v. Della-Donna*, 583 So.2d 307 (Fla.1989). This holding rationally applies in criminal proceedings as well.

The authority of the board of governors to defer or suspend disciplinary investigations is provided in rule 3-7.4(e), Rules Regulating The Florida Bar. Therefore, in order to define those instances when deferral is appropriate, this policy is enacted.

Deferral in Civil Cases

When an inquiry or disciplinary complaint is filed and the conduct involves an ongoing civil litigation, bar counsel shall analyze the complaint and determine if the issues involved are of the sort that they may be adjudicated in the civil litigation. If so, bar counsel may, with the concurrence of the chief branch discipline counsel, close the file and defer investigation of the disciplinary complaint until such time as the civil litigation has concluded.

From: Larry Stewart
To: 'Kenneth L. Marvin'
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: RE: Rule 3-7.4 & Standing Board Policy
Date: 10/29/2013 07:52 PM

Thx. I will research the Rule through the cases. Do you know where I can find the language for the various versions of 15.55? What I am trying to pin down is whether the authority to defer existed at the relevant times for these cases. Minor changes in the Rule or Policy doesn't make any difference as long as the basic authority was in place.

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Tuesday, October 29, 2013 7:43 AM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: Re: Rule 3-7.4 & Standing Board Policy

Larry,

Below is the history of 3-7.4. I have not looked up the cases, but I do have copies of the old rules if you need them

Former Rule 3-7.3 renumbered as Rule 3-7.4 and amended March 16, 1990, effective March 17, 1990 (558 So.2d 1008); amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); Oct. 20, 1994 (644 So.2d 282); June 27, 1996, effective July 1, 1996 (677 So.2d 272); Feb. 8, 2001 (795 So.2d 1); April 25, 2002 (820 So.2d 210); October 6, 2005, effective January 1, 2006 (SC05-206) (916 So.2d 655); November 19, 2009, effective February 1, 2010, (SC08-1890), (34 Fla.L.Weekly S628a); amended July 7, 2011, effective October 1, 2011 (SC10-1968).

As to 15.55, here is the history

History

Amended January 30, 2004; August 13, 2004; December 10, 2004; June 1, 2007; May 28, 2010, effective June 28, 2010.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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From: Larry Stewart <lstewart@stflaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>

Date: 10/29/2013 06:56 AM
Subject: Rule 3-7.4 & Standing Board Policy

Ken: I am trying to determine when Rule 3-7.4(e) and Bd of Gvs Standing Board Policy 15.55(b) were adopted or went into effect. There was some vague reference by Marks & Fleischer's attorney at the argument on the M/Dismiss that the Rule and/or the Board Policy was adopted after the deferral of prosecution in their cases and therefore did not apply. For your reference, the complaint which started these actions was filed with the Bar on April 30, 2008. There were some delays due to a pending M/Rehearing in the underlying case and requested extensions so I don't know exactly when the deferral decision was made but that decision was affirmed by the Bd of Gvs on April 13, 2009.

I would appreciate it if you could have someone track down (1) when the rule was adopted and/or went into effect and (2) when the Bd of Gvs adopted the Standing policy.

Thx.

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From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: Emily Sanchez; David Rothman
Subject: Rehearing Order
Date: 10/23/2013 01:50 PM

Has an Order been entered on the Pet/Rehearing? If so, please send me a copy.

Ditto on the M/Stike

From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: Emily Sanchez
Subject: Transcript M/SJ Hearing
Date: 10/22/2013 09:40 AM

Have you rec'd a transcript from the K & K M/SJ hearing yet? If so, please send me a copy

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

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From: Larry Stewart
To: 'Kenneth L. Marvin'
Subject: RE: Judges' Manual
Date: 10/21/2013 08:57 AM

Thx

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Monday, October 21, 2013 7:55 AM
To: Larry Stewart
Subject: RE: Judges' Manual

Here ya go

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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From: Larry Stewart <lsstewart@stfblaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>
Date: 10/19/2013 08:14 PM
Subject: RE: Judges' Manual

Ken: You previously sent me the Manual for judges in grievance cases. Somehow I managed to lose it off my computer. Could you please resend me a copy? Thx.

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From: Larry Stewart
To: Adria Quintela
Cc: 'DBR@RothmanLawyers.com'; Ghenete Wright Muir; Alan Pascal; Todd Stewart (Todd@trialcounselor.com); William C. Hearon
Subject: RE: Marks and Fleischer Appeal
Date: 10/15/2013 01:07 PM

Adria:

I have been thinking more about when the appeal must be filed and have discussed it with some friends. As I note below, the Rules are ambiguous concerning a Report following a dismissal. There is no express rule for that and Rule 3-7.7 refers to both "a report of a referee and a judgment." That seems to contemplate an appeal from a judgment without a referee report. The Rules also don't expressly authorize a M/Rehearing, so respondents could argue that the M/Rehearing in this case did not toll the time for filing a Petition for Review. In other words, unless there is some clear authority on point, an argument can be made that the time to appeal a dismissal starts running from the date of the Order, here 9/9/13. If there is no such authority and I was representing those guys, I would make the argument and we should count on them to do likewise.

This is something that you may have already thought of but there isn't much time left to take that issue off the table. In other words, to be on the safe side, the Petition for Review should be filed on or before Nov. 8th (60 days from the date of the order of dismissal). That also makes it critical to get an "agenda item" to the Bd of Gvs as soon as possible; it might even need to go to the Exec Comm since there probably isn't a Bd meeting before Nov. 8th.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Larry Stewart
Sent: Monday, October 14, 2013 4:51 PM
To: 'Adria Quintela'
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal; Todd Stewart (Todd@trialcounselor.com); William C. Hearon
Subject: RE: Marks and Fleischer Motion for Rehearing

Adria:

I read the transcript. There is nothing to indicate that the judge understands his obligation to produce a report and record to send to the Fla Sup Ct. The Rules in that regard are somewhat ambiguous. Rule 3-7.6(m) requires a report within 30 days of a trial but there is nothing dealing with a dismissal. I assume that the same would apply to a dismissal but that is not clear and from his comments in the transcript the judge may be thinking that the Bar will simply appeal his order. Has this been discussed with him? Otherwise we could wait a long time to get this appeal underway. Perhaps a letter to him (with copy to opposing counsel) pointing out the rule and also

that under Rule 3-7.6(n) Bar counsel will assist him even though his ruling was adverse.

Also, as I understand the procedure your office needs to prepare an "agenda item" for the Bd of Govs recommending an appeal and stating the reasons for that recommendation. Is that something that can be drafted now so it is ready to go as soon as a proper report is filed?

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

Good afternoon Larry,

The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
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From: Larry Stewart
To: 'Kenneth L. Marvin'; John T Berry; 'jharkness@flabar.org'
Cc: 'dbr@rothmanlawyers.com'; William C. Hearon; Todd Stewart
Subject: FW: Fla Bar v. Gary Marks & Amir Fiescher Appeal
Date: 10/15/2013 11:01 AM

Ken:

I assume that you know the referee denied the M/Rehearing and we now have to go to the Supreme court. In that regard, I would like to urge the appointment of Special Counsel to handle the appeal

I know that in the past Bar counsel have handled appeals but I doubt that many, if any, involved the complexities of this case. While at first blush this might appear to be a slam dunk, it is anything but a certain reversal and writing the brief and arguing this case to the Court is going to require someone with specific appellate advocacy skills. As far as Bar counsel is concerned, I suggest it would be imprudent to have the office that dropped the ball on this motion write the brief and argue the matter before the court. Not only would it be awkward for them to explain in the brief how the original hearing was botched but it would also be very difficult to appear in front of the Court to argue this appeal. That is a reason why in many cases trial counsel does not handle the appeal.

Moreover, from reading the transcript, I am still not convinced that Bar counsel yet understands the issues involved. For example when the judge raised the point that Marks and Fleischer's lawyer did not object to the deferral of the case pending the appeal (p. 43) -- thereby potentially tolling the SOL -- Bar counsel allowed it to be brushed off as just a reference to the "reviewer." And, when the judge ruled that the Bar was not on notice of the violations until 2008 (p. 48), Bar counsel did not make the point that the Formal Complaint was filed in 2013, just five years later. Nor did they bring to the judges' attention that the JQC had denied a motion to dismiss in the Laura Watson case the was based in part on the SOL (even though they told me that they were going to do so). I had provided Bar counsel with an Addendum to the M/Rehearing on the Watson ruling but they did not file it so there is nothing in the record on that point; in other words, the point is now lost unless Watson tries some sort of interlocutory appeal. I don't like having to report these things but I think it is necessary for you to know as you consider how to proceed.

Writing the brief in this appeal is going to require a lot of skill. Aside from the basic arguments the brief will have to

1. Finesse the fact that there was no record or substantive argument at the original hearing. That all came up on the M/Rehearing and, as I feared, the respondents' lawyers were all over the fact that the Bar was supplementing the record on rehearing with new matters and new arguments.

2. Cover all the "laches" issues. While the judge said at the rehearing that he was not ruling on the basis of laches -- probably because he realized that he made a big mistake in his original order -- that does not mean that the respondents will not attempt to revive the point. In addition, the judge also denied the M/Strike all of the evidence that the respondents submitted. He was obviously trying to straddle the issue and we should use his screw-up to subtly suggest that he doesn't know what he is doing.

3. Cover the so-called constitutional "due process" point. This was the judge's fall back justification for the dismissal and it needs to be carefully and fully destroyed.

I think David Rothman has an appellate lawyer in his office but I don't know if his appointment includes this aspect. If it does, I suggest this is not a matter in which Bar counsel should write the brief subject to David's review; This appeal needs fresh thinking and is going to require some real finesse in dealing with the new matters in the M/Rehearing. There are of course many highly skill Florida appellate advocates. Sylvia Walbolt and Sandy D'Alemberte (although this may not be up his alley) are two obvious ones. There are several others currently serving on the Fla. Supreme Court civil Jury Inst Comm. And I know several in the So Fla area.

Please let me know how you intend to handle this.

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From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: 'dbr@rothmanlawyers.com'
Subject: Order on Rehearing.
Date: 10/15/2013 09:58 AM

I rec'd the transcript. Do you have the Order denying Rehearing? If so, please send me a copy.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

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From: Larry Stewart
To: Adria Quintela
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal; Todd Stewart (Todd@trialcounselor.com); William C. Hearon
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/14/2013 04:51 PM

Adria:

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Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

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From: Adria Quintela
To: Larry Stewart
Bcc: Ghenete Wright Muir
Subject: Re: Kanes Motion for Summary
Date: 10/11/2013 03:56 PM

I don't think they will have anything to share other than what they told me which is that the judge appeared a bit more favorable to us as is evident from his ruling, but you can read the transcript and see if you gather something more from that. He entertained extensive argument by both sides, retired to consider his ruling, and then ruled.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
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(954)835-0133 fax
aquintel@flabar.org

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Larry Stewart ---10/11/2013 03:52:27 PM---I would still like to talk to Ghenette or Alan to see if any insights to judge Thanks.

From: Larry Stewart <lsstewart@stflaw.com>
To: Adria Quintela <aquintel@flabar.org>
Date: 10/11/2013 03:52 PM
Subject: Re: Kanes Motion for Summary

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Thanks,

Larry Stewart

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On Oct 11, 2013, at 3:47 PM, "Adria Quintela" <aquintel@flabar.org> wrote:

Good afternoon Larry,
I wanted to inform you that we prevailed in defeating the respondents' Motion for Summary Judgment. Ghenete and Alan

argued extensively and the referee agreed that summary judgment was not appropriate. We ordered the transcript and I will send you a copy of the same when it is ready.

We have not yet received the transcript on the motion for rehearing. Once I receive that I will also send you a copy of that.

Please let me know if you need anything else. Thank you.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org<mailto:aquintel@flabar.org>

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From: [Adria Quintela](#)
To: lsstewart@stfblaw.com
Cc: DBR@RothmanLawyers.com; [Alan Pascal](#); [Ghenete Wright Muir](#); [Emily Sanchez](#)
Subject: Kanes Motion for Summary
Date: 10/11/2013 03:47 PM

Good afternoon Larry,

I wanted to inform you that we prevailed in defeating the respondents' Motion for Summary Judgment. Ghenete and Alan argued extensively and the referee agreed that summary judgment was not appropriate. We ordered the transcript and I will send you a copy of the same when it is ready.

We have not yet received the transcript on the motion for rehearing. Once I receive that I will also send you a copy of that.

Please let me know if you need anything else. Thank you.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: SJ hearing
Date: 10/11/2013 12:24 PM

Please call. I would like to hear about the SJ hearing yesterday.

Have you rec'd the transcript from the hearing on the M/Rehearing yet?

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: David Rothman
To: Larry Stewart; Adria Quintela
Cc: Ghenete Wright Muir; Alan Pascal; William C. Hearon; Todd Stewart
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 05:12 PM

Larry,

Good afternoon. I just returned from a meeting at Bar Counsels' office in Sunrise. With my associate, Jeanne Melendez, I was given an overview of the cases and provided a box of relevant documents. Although I do not expect to be totally up to speed for a while, I have begun to dig into the box to continue my education about the cases. If you would like to meet with me, I will make myself available tomorrow or Thursday. I would prefer to do it in my office if that is ok with you. I am in the Southeast Financial Center in Suite 2770. Assuming this first meeting can be kept to one hour, tomorrow I can meet at 8:30, or anytime between 11:00 and 3:00, when I have a scheduled meeting on another matter. Thursday, I am ok anytime in the morning except I have a teleconference that will last about 30 minutes starting at 10:00.

David

David B. Rothman
Board Certified Criminal Trial Lawyer
Rothman & Associates, P.A.
Criminal and Bar Defense
Suite 2770
Southeast Financial Center
200 S. Biscayne Blvd.
Miami, FL 33131
Tel: 305.358.9000
email: dbr@rothmanlawyers.com
website: RothmanLawyers.com

This email message and any attachment are confidential and privileged and intended only for the named recipient(s). If you have received this in error, please immediately notify Rothman & Associates, P.A. at 305-358-9000, and delete the message and attachment.

From: Larry Stewart [mailto:lsstewart@stfbllaw.com]
Sent: Tuesday, October 08, 2013 4:56 PM
To: 'Adria Quintela'
Cc: David Rothman; Ghenete Wright Muir; Alan Pascal; William C. Hearon; Todd Stewart
Subject: RE: Marks and Fleischer Motion for Rehearing

Please send me a copy of the transcript as soon as it is available.

How soon can the appeal get underway? I understand that the referee has to make a recommendation. What can you do to expedite that process?

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

Good afternoon Larry,

The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Adria Quintela
To: Larry Stewart
Cc: Alan Pascal; William C. Hearon; Ghenete Wright Muir; Todd Stewart; Emily Sanchez
Subject: Re: M/Consolidate
Date: 10/08/2013 05:03 PM

It is not scheduled yet. We are discussing that, among other things, with David Rothman. I will let you know.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

✶ Larry Stewart ---10/08/2013 04:58:20 PM---When is the M/Consolidate set for hearing? Please note: Florida has very broad public records laws.

From: Larry Stewart <lsstewart@stflaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>, Alan Pascal <APascal@flabar.org>, Ghenete Wright Muir <GWrightMuir@flabar.org>
Cc: "William C. Hearon" <bill@williamhearon.com>, Todd Stewart <Todd@trialcounselor.com>
Date: 10/08/2013 04:58 PM
Subject: M/Consolidate

When is the M/Consolidate set for hearing?

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From: Adria Quintela
To: Larry Stewart
Cc: Alan Pascal; William C. Hearon; DBR@RothmanLawyers.com; Ghenete Wright Muir; Todd Stewart; Emily Sanchez
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 05:02 PM

I will as soon as we have it. The referee has to enter his Order granting the dismissal, then sign off on a Report of Referee. There is not much we can do to expedite that process as it is outside our control. Once he signs his Report of Referee we prepare an agenda item which will go to the Board of Governors seeking approval to appeal. We will then file a Petition for Review on the Report of Referee, brief the case, and await for the Supreme Court to rule.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

Larry Stewart ---10/08/2013 04:56:56 PM---Please send me a copy of the transcript as soon as it is available. How soon can the appeal get unde

From: Larry Stewart <lsstewart@stfbaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>
Cc: "DBR@RothmanLawyers.com" <DBR@RothmanLawyers.com>, Ghenete Wright Muir <GWrightMuir@flabar.org>, Alan Pascal <APascal@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, Todd Stewart <Todd@trialcounselor.com>
Date: 10/08/2013 04:56 PM
Subject: RE: Marks and Fleischer Motion for Rehearing

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From: Adria Quintela [mailto:aquintel@flabar.org]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

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in this matter and assist the bar. He will be contacting you in the next day or two.

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Chief Branch Discipline Counsel
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From: [Larry Stewart](#)
To: [Adria Quintela](#)
Cc: [DBR@RothmanLawyers.com](#); [Ghenete Wright Muir](#); [Alan Pascal](#); [William C. Hearon](#); [Todd Stewart](#)
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 04:56 PM

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From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: [DBR@RothmanLawyers.com](#); [Ghenete Wright Muir](#); [Alan Pascal](#)
Subject: Marks and Fleischer Motion for Rehearing

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Adria E. Quintela
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From: [Adria Quintela](#)
To: lsstewart@stfblaw.com
Cc: DBR@RothmanLawyers.com; [Ghenete Wright Muir](#); [Alan Pascal](#)
Bcc: [Kenneth L. Marvin](#)
Subject: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 04:26 PM

Good afternoon Larry,
The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
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(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: 'kmarvin@flabar.org'; William C. Hearon; Todd Stewart
Subject: FW: SERVICE OF COURT DOCUMENT; SC13-388, SC13-389
Date: 10/07/2013 05:42 PM
Importance: High
Attachments: Object 43BD6AE 0.PDF

I don't understand the unwillingness to discuss changes. Most were stylistic which I don't have a problem with. The change to footnote # 4, p. 9 is wrong. Disputed facts was only 1 of several reasons why the motion was denied. As changed it makes it seem like disputed facts was the only reason the motion was denied. That however is not a fatal point.

From: Emily Sanchez [mailto:ESanchez@flabar.org]
Sent: Monday, October 07, 2013 2:31 PM
To: stozian@smithtozian.com; email@smithtozian.com
Cc: Kenneth L. Marvin
Subject: SERVICE OF COURT DOCUMENT; SC13-388, SC13-389
Importance: High

The Florida Bar v. Charles Jay Kane & Harley Nathan Kane
The Florida Bar File No. 2008-51,559(17B), 2008-51,562(17B)
Supreme Court Case Nos. SC13-388 and SC13-389

Please see attached:

TFB Memo. in Opposition to Kane's Mot. for Summary Judgement 10/07/2013

Emily Sanchez
Assistant to Ghenete Wright Muir
Lawyer Regulation - Fort Lauderdale
ph. (954) 835-0233 ext. 4124
fax (954) 835-0133
esanchez@flabar.org

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[Please disregard the prior e-mail on this subject. I hadn't quite finished and inadvertently hit the Send button. Here is the full message.]

Dear Ken:

I fear that we are headed for another disaster in these cases. On this coming Thur the Kanes M/SJ is set for hearing. This should be a slam dunk winner for the Bar but, like the M/Dismiss on the SOL, once again Bar counsel is refusing to dismiss strategy in advance of the hearing and may again be making some huge mistakes.

When the motion was filed, Bar counsel asked for an aff't. Since they still not yet started to learn the facts and exhibits I prepared both an aff't and a Memo in Opp. (since it was clear they were not). Bar counsel knew what I was doing since I asked for and received research from Bar counsel, which I incorporated in the Memo. The Memo lays out the facts and all the reasons why the M/SJ should be denied. As drafted, the denial of the M/SJ is so obvious that the referee shouldn't even need to have a hearing.

Quite by accident I learned Fri afternoon that Bar counsel has made a "lot of changes" to the Memo but so far (see below) they are refusing to discuss those changes. Substantive changes, especially by someone who does not know the facts or the law, could be disastrous. In the case of the SOL the Bar has had to resort to a M/Rehearing (which I wrote) to make the points which should have been made at the original hearing and, hopefully, that will be sufficient so that the Supreme court doesn't conclude that the Bar waived all those points by not making them in the original argument. But a "lot of changes" in the Memo on the M/SJ could put the Bar back in the same position. There is still time to act since the Memo is not going to be filed until sometime Mon.

I also learned that lead counsel on these cases remains the same, notwithstanding what happened on the M/Dismiss and the fact that she is the least experienced lawyer in the office (and this is probably the most complex and fact intensive case the Bar is currently prosecuting). Since there appears to be a culture in the office that lead counsel argues all the motions, the same lawyer that argued the SOL motion -- and missed all the points on the motion -- is scheduled to argue the M/SJ. She obviously has no intention to go over it with me in advance even though it is the norm for trial lawyers to rehearse before important arguments and her past performance does not bode well for her preparation.

And, "we will submit your aff't" is no answer for if the motion is not correctly argued in both the Memo and at oral argument, it could be easily lost, given with what we are dealing with as a referee.

We also need to get past the "you need to rely on us to get it right" attitude. I thought that "trust me was put to rest with the SOK debacle. Yes we have a very inexperienced referee but Bar counsel completely missed every issue that should have been argued at the motion. Persistence with a "trust me" approach will only lead to more problems.

I know you are working on obtaining a Special Prosecutor but, in the meantime, something needs to be done. Since Adria does not intend to do anything to head this off, I am appealing to you.

P.S. The protestations below about my involvement in preparing the Memo seem strange since I wrote the M/Rehearing on the SOL and there was no complaint then.

-----Original Message-----

From: Adria Quintela [<mailto:aguintel@flabar.org>]
Sent: Saturday, October 05, 2013 7:13 PM
To: Larry Stewart
Subject: Re: Kasnes M/SJ

Larry:

We appreciate and value your help. As I have mentioned, the complainant in this matter is The Florida Bar. We must and should submit our own work product. I value your input and do not question your abilities, but you are just going to have to rely in what Ghenete, Alan and I submit to the referee.

I cannot have you write our motions, our memorandum, nor do I feel comfortable submitting a document to the referee that is signed by us yet drafted by you.

We will submit your affidavit and Sammy's but our work has to be our own without your approval or revisions. Thank you for your anticipated understanding.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954) 835-0233
(954) 835-0133 fax
aqintel@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====
To: 'Adria Quintela' <aqintel@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "10-05-2013" "07:54AM"
Subject: Kasnes M/SJ
=====

Adria: I need to talk to you ASAP. As you probably know I have been working on a Memo in Opp to the Kanes M/SJ for over a week. Last Tue I sent a draft of that Memo - which incorporated research from Alan and Ghenete -- noting that it still needed to be updated for Sammy Cacciatore's aff't (which at that time was not yet done).

Yesterday I sent an updated version of the Memo which had the references to the Cacciatore aff't plus changes/corrections in the legal argument on the role of the underlying judgments (I had done add'l research) and typo and grammatical fixes. It was then that I first learned - quite by accident -- that Ghenete had made a "lot of changes" to the original draft.

I am very concerned about a "lot of changes" to the Memo. Like the SOL issue, if properly presented this should be a slam dunk winner. However, neither Ghenete nor Alan have yet to interview us or learn the underlying facts, especially all the distortions of the PIP lawyers and why they are wrong. In addition, the Memo lays out all the legal reasons why the M/SJ should be denied. Changes to the Memo could have the inadvertent effect of either abandoning key legal points or taking factual positions that could prove to be adverse down the road.

I don't have a problem with non-substantive changes but if there are any substantive changes it would be a huge mistake. We now know that the referee is quite capable of making very erroneous decisions. If he grants this motion it is imperative that the record before the Supreme court reflect that we preserved all arguments and had the facts right.

I would like to go over the changes to the Memo and, if substantive, discuss them with you. I can be reached at 305-799-0163.

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From: Adria Quintela
To: Larry Stewart
Subject: RE: Addendum to M/Rehearing
Date: 10/07/2013 02:00 PM

Agreed. Thanks,

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

Larry Stewart ---10/07/2013 01:55:26 PM---Good. But don't let Tynan get you bogged down in the nuisances of the Watson case v. the Marks & Fi

From: Larry Stewart <lsstewart@stflaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>
Date: 10/07/2013 01:55 PM
Subject: RE: Addendum to M/Rehearing

Good. But don't let Tynan get you bogged down in the nuisances of the Watson case v. the Marks & Fischer cases. You have too many good arguments in the M/Rehearing, any one of which is sufficient for rehearing and denial of the M/Dismiss

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Adria Quintela [mailto:aquintel@flabar.org]
Sent: Monday, October 07, 2013 1:49 PM
To: Larry Stewart
Subject: RE: Addendum to M/Rehearing

We will bring it to the judge's attention tomorrow. I have all of the documents provided to me and those will be brought to the judge's attention.

Adria E. Quintela

Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Larry Stewart <lsstewart@stfb.com>
To: 'Adria Quintela' <aquintel@flabar.org>
Date: 10/07/2013 01:46 PM
Subject: RE: Addendum to M/Rehearing

Got it. Why wouldn't you want this neophyte country court judge to know that a 5th DCAQ judge has denied a M/Dismiss that was based in part of a claim that the SOL expired? You wouldn't be claiming that the ruling was res judicata, merely informative.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Monday, October 07, 2013 1:40 PM
To: Larry Stewart
Cc: William C. Hearon
Subject: Fw: Addendum to M/Rehearing

Adria E. Quintela
Chief Branch Discipline Counsel

November 5th at 1 S.E. 3rd Avenue, Miami, Florida

Please get back to be on these matters as soon as possible.

VTY

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Larry Stewart
Sent: Friday, October 04, 2013 5:38 PM
To: Larry Stewart; 'Ghenete Wright Muir'; 'Alan Pascal'; 'Adria Quintela'
Cc: William C. Hearon; 'Todd Stewart'; Emily Sanchez
Subject: RE: Your deposition

Date in letter should be 2007, not 2003.

From: Larry Stewart
Sent: Friday, October 04, 2013 3:06 PM
To: Ghenete Wright Muir; 'Alan Pascal'; Adria Quintela
Cc: William C. Hearon; Todd Stewart
Subject: FW: Your deposition

Both Bill Hearon and I have received requests for depo dates from Tozian's office. The Oct dates are no good for Bill. We can tentatively do the dates in Nov but there should be some understandings about the scope of the deops. Allowing them free reign plays into their plans to re-try the underlying case. Also, assuming that the cases are consolidated, we should only be subject to depositions one time. I suggest that you send them this letter:

Dear Mr. Tozian:

Mr. Stewart and Mr. Hearon have informed us that you have asked them for deposition dates. Before proceeding further, I would like

to know the scope of the dispositions you plan to take. As you know, both Mr. Stewart and Mr. Hearon have already been questioned extensively about the matters involved in these grievances, both in pre-trial depositions and at the trial of the underlying case. Mr. Stewart was deposed on two occasions and was on the witness stand for 10 days. Mr. Hearon was deposed and on the witness stand for several days. We believe that any new depositions should be limited to updating matters since the trial in the fall of 2003. In other words, the depositions should not rehash matters already covered.

Please let us know if you agree. If you do not, we will need to seek a protective order prior to the commencement of the depositions.

Also, neither Mr. Stewart nor Mr. Hearon are available on the dates that you have suggested in October. Assuming that we have agreement on the scope of the depositions, I suggest that they be taken in Miami at the offices of Stewart Tilghman Fox Bianchi & Cain on November 4th, with Mr. Stewart's commencing at 9am and Mr. Hearon's at 1pm.

Please get back to be on these matters as soon as possible.

VTY

From: Mary Masferrer
Sent: Friday, October 04, 2013 10:38 AM
To: Larry Stewart
Subject: Your deposition

Angela from Mr. Tozian's office called regarding your availability for deposition. She gave me October 28 and November 5-7. The depositions will be taken in Miami and she did mention that they wanted to set up two depositions for the same day. Their telephone number is (813) 273-0063.

Mary Masferrer
Assistant to David W. Bianchi
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone: (305) 358-6644

From: Adria Quintela
To: Larry Stewart
Bcc: Kenneth L. Marvin
Subject: Re: Kasnes M/SJ
Date: 10/05/2013 07:12 PM

Larry:

We appreciate and value your help. As I have mentioned, the complainant in this matter is The Florida Bar. We must and should submit our own work product. I value your input and do not question your abilities, but you are just going to have to rely in what Ghenete, Alan and I submit to the referee.

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(954) 835-0233
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aquintel@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====

To: 'Adria Quintela' <aquintel@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "10-05-2013" "07:54AM"
Subject: Kasnes M/SJ

=====

Adria: I need to talk to you ASAP. As you probably know I have been working on a Memo in Opp to the Kasnes M/SJ for over a week. Last Tue I sent a draft of that Memo - which incorporated research from Alan and Ghenete -- noting that it still needed to be updated for Sammy Cacciatore's aff't (which at that time was not yet done).

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From: Ghenete Wright Muir
To: Sammy Cacciatore
Cc: Vanessa McCurry; Emily Sanchez; Alan Pascal
Subject: RE: Aff in support of Memo in Opp of Kanes MSJ
Date: 10/04/2013 03:00 PM

Thank you Sammy. We look forward to receiving your signed affidavit from your assistant.

Ghenete Wright Muir
Bar Counsel
The Florida Bar
Lawyer Regulation- Ft. Lauderdale
Phone: 954-835-0233
Fax: 954-835-0133
gwrightmuir@flabar.org

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* "Sammy Cacciatore" ---10/04/2013 02:51:05 PM---Ghenete,

From: "Sammy Cacciatore" <sammy@nancelaw.com>
To: "Ghenete Wright Muir" <GWrightMuir@flabar.org>
Cc: "Sammy Cacciatore" <sammy@nancelaw.com>, "Vanessa McCurry" <vmccurry@nancelaw.com>
Date: 10/04/2013 02:51 PM
Subject: RE: Aff in support of Memo in Opp of Kanes MSJ

Ghenete,

I have reviewed the affidavit and it covers my discussion with you and Alan. A job well done. I have added some language at the end of the second numbered paragraph regarding my involvement in ethics matters while on the Board of Governors of the Bar which my assistant is sending to you.

Sammy
Sammy@NanceLaw.com
321-777-7777

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]
Sent: Friday, October 04, 2013 12:00 PM
To: Sammy Cacciatore
Cc: Vanessa McCurry; Emily Sanchez; Alan Pascal
Subject: Aff in support of Memo in Opp of Kanes MSJ

Good Morning Sammy:

Attached for your review is a draft aff't based on your opinions. Please make sure it accurately states your opinions and, if it does not, make any changes necessary so that it does. Note that your CV needs to be attached as Ex A and para 2 needs some more material.

When you have it in final form, please execute it and send back. As you know, the M/SJ is set for next Thursday and we need to incorporate your opinions into the Memo in Opposition so there is not a lot of time. Thank you.

Ghenete Wright Muir
Bar Counsel
The Florida Bar
Lawyer Regulation- Ft. Lauderdale
Phone: 954-835-0233
Fax: 954-835-0133
gwrightmuir@flabar.org

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From: Adria Quintela
To: Larry Stewart
Cc: Alan Pascal; Adria Quintela; Ghenete Wright Muir; Emily Sanchez; William C. Hearon; Todd Stewart
Subject: RE: Draft Response to Kane's Motion to Strike
Date: 09/22/2013 09:27 PM

Thank you. Appreciate you taking the time.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954) 835-0233
(954) 835-0133 fax
aquintela@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====

To: 'Alan Pascal' <APascal@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "09-22-2013" "03:17PM"
Cc: Adria Quintela <aquintela@flabar.org>, Ghenete Wright Muir <GWrightMuir@flabar.org>, Emily Sanchez <ESanchez@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <todd@trialcounselor.com>
Subject: RE: Draft Response to Kane's Motion to Strike

=====

My suggestions attached in redline.

From: Alan Pascal [mailto:APascal@flabar.org]
Sent: Thursday, September 19, 2013 2:37 PM
To: Larry Stewart
Cc: Adria Quintela; Ghenete Wright Muir; Emily Sanchez
Subject: Draft Response to Kane's Motion to Strike

Hi Larry,

Please read our draft response to Kane's motion to strike. Please feel free to make any suggested edits or comments.

Sincerely,

Alan A. Pascal
Senior Bar Counsel
The Florida Bar
Lake Shore Plaza II, Suite 130
1300 Concord Terrace
Sunrise, Florida 33323
Tel. (954) 835-0233
Fax (954) 835-0133
apascal@flabar.org<mailto:apascal@flabar.org>

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[attachment(s) kane response to motion to strike.doc removed by Adria Quintela/The Florida Bar]
Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart
To: 'APascal@flabar.org'; Ghenete Wright Muir; Ghenete Wright Muir
Cc: William C. Heaton; Todd Stewart
Subject: M/Rehearing
Date: 09/16/2013 09:56 AM
Attachments: marks fleischer motion for rehearing.doc

Attached are my thoughts on the M/Rehearing. I started redlining your draft but it became too much and too confusing. As you will see, I re-ordered certain of the points – for example, moving up the erroneous statement about your position on the SOL to the first point. I added 1 new point and beefed up others but all your points are still there even though the form might be different. There are still a number of things that need to be filled in which are highlighted in yellow.

I will be shortly sending you my affidavit. There are a bunch of attachments to it which I will probably send in a separate message.

A few things to note about this motion:

1. Because the cases are not yet consolidated, you need to file two separate motions, one in each case.
2. Under the Rehearing Rule 1.530(c) my aff't must be filed with the M/Rehearing
3. I eliminated references to M/Reconsideration and Relief from Judgment. We cannot meet the test for Relief from judgment and Reconsideration is duplicative of Rehearing. Using those terms confuses the issue.
4. Please check and make sure the Rule 3-7.4(e) and the Standing Bd of Govs policy re deferral were both in effect at all times of these cases. There was some suggestion in the hearing that one of both weren't and that they only were enacted later.
5. Re the sequence of events on deferral – pp 7 – 8 – my file shows that Bar counsel made the initial decision. We then asked for Bd of Govs review and the Bd concurred. Do I have that correct?
6. For some reason there is a formatting problem with the footnotes in the text. They appear as numbers rather than footnotes. I have highlighted them in yellow for ease of finding. I assume you all can fix that.
7. Please review carefully to make sure that I didn't misstate something about the timing of events.

Please also review carefully for grammar, punctuation, spelling, etc.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

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From: Adria Quintela
To: Larry Stewart
Cc: Adria Quintela; 'APascal@flabar.org'; Ghenete Wright Muir; William C. Hearon; Todd Stewart
Subject: RE: Charles Kane, TFB File No. 2008-51,559
Date: 09/15/2013 09:03 AM

Already working on that...thanks.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954) 835-0233
(954) 835-0133 fax
aquintel@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====

To: 'Adria Quintela' <aquintel@flabar.org>, "'APascal@flabar.org'" <APascal@flabar.org>, 'Ghenete Wright Muir' <GWrightMuir@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "09-14-2013" "11:25AM"
Cc: "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <Todd@trialcounselor.com>
Subject: RE: Charles Kane, TFB File No. 2008-51,559

=====

The law cited in this M/Strike is basically right but off point. You have not listed the judges to testify about either the meaning of their decisions nor their mental process in arriving at those decisions. Rather they are listed to testify about the false claims made before them and, in the case of Judge Kimball, the violation of his order. That is proper.

I suggest that you file a memo of Law on this since the referee obviously does not get it and might be prone to grant the motion.

From: Emily Sanchez [mailto:ESanchez@flabar.org]
Sent: Thursday, September 12, 2013 9:00 AM
To: Larry Stewart
Subject: Charles Kane, TFB File No. 2008-51,559
Importance: High

Respondent's Motion to Strike Witnesses 09/11/2013

Emily Sanchez
Assistant to Ghenete Wright Muir
Lawyer Regulation - Fort Lauderdale
ph. (954) 835-0233 ext. 4124
fax (954) 835-0133
esanchez@flabar.org<mailto:esanchez@flabar.org>

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From: Adria Quintela
To: Larry Stewart
Cc: Adria Quintela
Bcc: Emily Sanchez
Subject: Re: FW: Transcript
Date: 09/12/2013 07:21 AM

I also emailed you the transcript. I am out of the office this morning but am forwarding your message to Emily so that she can assist you.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954) 835-0233
(954) 835-0133 fax
aquentel@flabar.org

-----Larry Stewart <lssstewart@stfblaw.com> wrote: -----

=====

To: 'Adria Quintela' <aquentel@flabar.org>
From: Larry Stewart <lssstewart@stfblaw.com>
Date: "09-12-2013" "07:08AM"
Subject: FW: Transcript

=====

Have you learned when you will get the transcript of the hearing? I would also like to talk to you this morning about how to proceed on the M/Rehearing. Please call me at 305-799-0163.

From: Larry Stewart
Sent: Wednesday, September 11, 2013 9:19 AM
To: Ghenete Wright Muir; Alan Pascal; Adria Quintela
Cc: William C. Hearon; Todd Stewart
Subject: Re: Transcript

When will you receive the transcript of the hearing? Please forward it to me immediately.

Sent from my iPad

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure. On Sep 10, 2013, at 2:47 PM, "Larry Stewart" <lssstewart@stfblaw.com<mailto:lssstewart@stfblaw.com>> wrote:
Some initial thoughts for rehearing, not necessarily in order of priority:

1. I would file all of Marks and Fleischer's responses to the grievance and argue that they never raised the SOL before filing their Answers on 4/11/13.
2. I would file all of the responses of all the co-Respondents to the grievance. There are several from Watson and the Kanes which ask for postponement. From that I would argue that the co-respondents asked for postponement until the appellate process was over and neither Marks nor Fleischer ever objected. In fact, they took full advantage of the delay (by continuing to practice). This goes to refute the Order that M & F did nothing to toll the time. I would couple this with the law on concerted action in at least a footnote.
3. I would raise and file if necessary the standing Bar policy re deferring action pending the outcome of underlying litigation. If the referee were correct, it would render the standing Bar policy nonsense.
4. There are a number of factual misstatements in the Ms/Dismiss and in the M & F affidavits. I would argue that this being a M/Dismiss the facts have to be taken from Judge Crow's and Kimball's orders - as plead in the complaints. In that respect, I would argue that the facts, as set forth in both Judge Crow and Judge Kimball's orders, show that at all times material the 6 PIP lawyers were acting in lockstep and concert. See Judge Crow's Final Judgment at pp 2 - 11 and Judge Kimball's Memorandum Opinion at pp 4 - 17. I think this is important because you want to rely on those orders in the coming appeal of the M & F order. Since those orders are incorporated into the complaints against M & F they must be taken as true for purposes of the M/Dismiss. I would also cite the cases holding that such orders are sufficient by themselves to find ethical violations. Relying on the M & F affidavits creates factual issues which cannot be resolved on a M/Dismiss. Indeed the Order concedes that there were "disputed issues of fact" and those cannot be resolved at a M/Dismiss. This is, however, probably a minor point since the referee did not appear to use any of those misstatements. The more difficult problem is that there is no refutation of the factual claims of prejudice. But see below on those points.
5. As far as the destruction of their files and records is concerned, you can make the point that they conceded that they knew the ethical issues existed (were present in the underlying litigation). When they destroyed the files and records - admittedly before the SOL had expired, they did that at their own risk.
6. As far as the "dead witness," her death does not prejudice M & F. They can testify about those events. In any event, she was only a Progressive adjuster and a bit player as far as the secret settlement was concerned - not even present at the drafting of the MOU or the amendment to the MOU. In addition, Fran Anania, Progressive's lawyer, is available and he was the principle Progressive representative - he made the offers and he is the one who with the Respondents drafted the MOU and the amendment to the MOU. It is not every dead witness who creates prejudice; only

material witness whose testimony cannot be duplicated from other sources.

7. The order concedes that the grievance was timely filed, i.e., begun. That should be the end of it. But the Order then states that the Bar's position is that the Bar had 6 years thereafter to file a complaint. I hope that is a misstatement because it is clearly wrong since the 6 years run from the date of the event, i.e., May '04. SOL relates to how long one has the initiate proceedings, not how long one has to process the matter once it has been initiated. If a lawsuit is timely filed, it doesn't matter how long it takes to process the case. The Order of Dismissal confuses "commencement" with the filing of a "formal complaint." (See Rule 3-3.2(a) referring to a "formal complaint.") Clearly those are two different things. I think the correct argument is that the proceedings were "commenced" with the filing of the grievance complaint and, once commenced, they were held in abeyance in accord with the standing Board policy and the requests of the co-respondents pending the appellate process. (The latter point is why it is important to make the point that the co-Respondents were acting throughout in lockstep - see # 4 above.) Note that Rule 3-7.16 does not say that a formal complaint must be filed within 6 years, only that the proceedings must be "commenced." The plain meaning of "commenced" is to begin or start. In Florida a grievance is begun or started by either the Bar or by an individual filing a written complaint under oath. If Bar counsel determines the allegations would constitute an ethical violation, a disciplinary file is opened and the initial inquiry "shall be considered as a complaint." Rule 3-7.3(b). Note the difference between a "complaint" and a "formal complaint." Thereafter, the process requires an investigation, grievance committee hearing and a finding of probable cause before a formal complaint can be filed. Of course, the problem here is that the Bar delayed proceeding until Jan 2012 (or whenever the first Notice of the grievance committee hearing was furnished to the respondents) but if you can make the point that the proceedings were commenced with the initial complaint, it should not make any difference that a formal complaint was not filed until 3/13/13..

EXHIBIT J

SUPREME COURT OF FLORIDA

CASE NO. SC13-1333

INQUIRY CONCERNING A JUDGE
NO. 12-613

RE: LAURA MARIE WATSON

**NOTICE OF DISCOVERY OF ADDITIONAL
MATERIALS SUBJECT TO SUBPOENA**

Comes now The Florida Bar, through undersigned counsel, who files this Notice of Discovery of Additional Materials Subject to Subpoena in this Court and before the Judicial Qualifications Commission ("JQC"), and states:

1. The undersigned counsel represented The Florida Bar with respect to certain issues which arose during the proceedings before the JQC below.
2. On November 12, 2013, Respondent's counsel served a subpoena duces tecum upon The Florida Bar seeking, among other documents, certain e-mails in the possession of The Florida Bar ("Respondent's Subpoena").
3. At a hearing conducted before the Chair of the Hearing Panel of the Judicial Qualifications Commission on January 17, 2014, counsel for The Florida Bar represented that, other than certain materials encompassed within a Privilege Log, all responsive documents had been produced pursuant to Respondent's Subpoena.

RECEIVED, 02/17/2015 11:43:44 AM, Clerk, Supreme Court

4. Counsel for The Florida Bar has subsequently determined that additional materials had been in the possession of The Florida Bar which had not been provided pursuant to Respondent's Subpoena.

5. Counsel for The Florida Bar is in the process of immediately identifying and providing these additional materials to counsel for the Respondent.

6. Counsel for The Florida Bar files this Notice with this Court and before the JQC in order to promptly advise all parties of this information in the event any party seeks to pursue remand of this matter to the JQC pursuant to Rule 18, Florida Judicial Qualifications Commission Rules.

Respectfully submitted,

BEDELL, DITTMAR, DeVAULT, PILLANS & COXE
Professional Association

By: /s/ Henry M. Cox, III
Henry M. Cox, III
Florida Bar No. 0155193
E-mail: hmc@bedellfirm.com
101 East Adams Street
Jacksonville, Florida 32202
Telephone: (904) 353-0211
Facsimile: (904) 353-9307

and

McGUIRE WOODS LLP

By: /s/*Melissa W. Nelson*

Melissa W. Nelson

Florida Bar No. 0132853

E-mail: mnelson@mcguirewoods.com

50 N. Laura Street, Suite 3300

Jacksonville, FL 32202

Telephone: (904) 798-3200

Facsimile: (904) 798-3207

Attorneys for The Florida Bar

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2015, a true and correct copy of the foregoing was furnished by electronic mail to:

Michael L. Schneider
Judicial Qualifications Commission
1110 Thomasville Road
Tallahassee, FL 32303
Mschneider@floridajqc.com

Alexander Demetrios Varkas, Jr.
Sweetapple, Broeker & Varkas, P.L.
20 SE 3rd Street
Boca Raton, FL 33432
avarkas@sweetapplelaw.com

The Honorable Laura M. Watson
17th Judicial Circuit
201 SE 6th Street, Room 1005B
Fort Lauderdale, FL 33301
jwatson@17th.flcourts.org

Honorable Kerry I. Evander
Fifth District Court of Appeal
300 S. Beach Street
Daytona Beach, Florida 32114
evanderk@flcourts.org

Honorable Peter M. Weinstein
Chief Judge
Broward County Courthouse
201 SE 6th Street, Suite 801A
Fort Lauderdale, FL 33301

Lansing Charles Scriven
Trenam Kemker
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Colleen Kathryn O'Loughlin
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P.O. Box 4493
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Alan Anthony Pascal
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Apascal@flabar.org

Lauri Waldman Ross, Esquire
Counsel to the Hearing Panel of the
Judicial Qualifications Commission
9100 S. Dadeland Boulevard, #1612
Miami, FL 33156
rossgirten@laurilaw.com

/s/Henry M. Coxe, III
Attorney

EXHIBIT K

Henry Coxe - Honorable Laura M. Watson

From: Cynthia Bailey <cbailey@sweetapplelaw.com>
To: "HMC@bedellfirm.com" <HMC@bedellfirm.com>, "gwrightmuir@flabar.org" <gwr...>
Date: 1/16/2015 5:11 PM
Subject: Honorable Laura M. Watson
CC: Robert Sweetapple <rsweetapple@sweetapplelaw.com>
Attachments: Coxe.Muir.let re email 1.16.15.pdf

Goof afternoon,

Please see attached correspondence from Robert Sweetapple. Thank you.

CYNTHIA J. BAILEY

Certified Paralegal/Florida Certified Paralegal/Florida Registered Paralegal
Sweetapple, Broeker & Varkas, P.L.

20 SE 3rd Street

Boca Raton, FL 33432

(561) 392-1230(t) x. 305

(561) 394-6102(f)

cbailey@sweetapplelaw.com

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LAW OFFICES OF
SWEETAPPLE, BROEKER & VARKAS, P.L.

DOUGLAS C. BROEKER, P.A.
44 West Flagler Street, Ste. 1500
Miami, Florida 33130-6817
Telephone: (305) 374-5623
Facsimile: (305) 358-1023

ROBERT A. SWEETAPPLE *, **
DOUGLAS C. BROEKER
ALEXANDER D. VARKAS, JR.
KADISHA D. PHELPS
ALEXANDER D. VARKAS, III
ASHLEIGH M. GREENE

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20 S.E. 3rd Street
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Please Reply To: Boca Raton
E-Mail:
rsweetapple@sweetapplelaw.com
avarkas@sweetapplelaw.com
ajvarkas@sweetapplelaw.com
cbailey@sweetapplelaw.com
dsmith@sweetapplelaw.com

January 16, 2015

* BOARD CERTIFIED BUSINESS LITIGATION ATTORNEY
** BOARD CERTIFIED CIVIL TRIAL ATTORNEY

SENT VIA E-MAIL AND U.S. MAIL

Henry M. Coxe, III, Esquire
Bedell, Dittmar, Devault, Pillans & Coxe, P.A.
The Bedell Building
101 East Adams Street
Jacksonville, Florida 32202

Ghenete Wright Muir, Esq.
Lake Shore Plaza II
1300 Concord Terrace, Ste. 130
Sunrise, Florida 33323

Re: Case No.: SC13-1333; Judge Laura M. Watson

Dear Mr. Coxe and Ms. Muir:

As you are aware on November 12, 2013 I issued a subpoena and notice of taking videotaped deposition duces tecum of non-party, Ghenette Wright Muir, as counsel for the Florida Bar (**Exhibit "A"**). In paragraph one, Judge Watson sought:

"A copy of the Complaint and your complete file which **'pertain(s) to' or 'mentions'** Laura M. Watson regarding the investigation which began in 2008 and resulted in the finding of probable cause in October 2012. This request includes all affidavits of witnesses in the Florida Bar's possession at the time of the probable cause finding and any and all **'documents'** which were provided to the **'interested persons'** (emphasis added).

Paralegals:
Cynthia J. Bailey, CP, FCP, FRP
Deborah Smith, CP, FRP
Jamie Arden, FRP

In paragraph two, Judge Watson sought all such documents through the date of compliance with the subpoena:

“Any and all ‘documents’ as defined above, between you or any other Florida Bar Grievance Committee member or ‘interested persons’ as defined above, that ‘pertain(s) to’ or ‘mentions’ Laura Watson from 2008 through the date of production.” (emphasis added).

At the hearing before the Honorable Kerry Evander, Chair of the JQC, Mr. Coxe, on behalf of the Florida Bar stated to the Chair,

“I don’t think it’s self-serving –that we were making the decisions coming down in favor of Mr. Sweetapple, when in doubt, we would give them to Mr. Sweetapple. It included every e-mail communication to the Florida Bar from Mr. Stewart or other persons in Mr. Stewart’s office that related to Judge Watson. It included everything that Judge Watson would have been entitled to had she still been a lawyer in defending against the Bar accusations.

Mr. Coxe further stated, “...there is nothing in this universe that the Florida Bar essentially has that relates to Judge Watson that hasn’t been produced.” (emphasis added). (Exhibit “B” - Tr. of Hrg on January 17, 2014, p. 49-50)

Based on my initial investigation, it appears that there are numerous emails exchanged between Mr. Stewart, Mr. Hearon, their associates and the Florida Bar between January 2008 and January 2014. Numerous such emails appear to have been produced in the case of The Florida Bar v. Charles J. Kane and Harley N. Kane before a referee. I have located emails from February 24, 2009 from and between Mr. Hearon and Mr. White, former President of the Florida Bar. (Exhibit “C”) Mr. Hearon was lobbying Mr. White with regard to the prosecution of then attorney Watson. The email contains extensive discussion of Judge Watson’s Bar complaint including the forwarding of Judge Watson’s testimony from the February 11, 2009 Rule 5-1.1F proceeding. As you know, Mr. White served on the JQC panel that charged Judge Watson.

There are other emails that I have located that show Mr. Stewart was intimately involved in the prosecution of the bar complaints, including preparing letters and motions for the Bar. Such emails are referenced in an exhibit to the Kane’s motion to dismiss. An especially suspicious email was produced, marked exhibit K to the Kane’s motion to dismiss. This email, which was never produced to Judge Watson, reveals a discussion between Bar Special Counsel Rothman and Larry Stewart. The email compliments Mr. Stewart on his presentation before the JQC. The JQC hearing had not yet occurred at the time of the referenced email and Judge Watson harbors deep concerns as to what Bar Special Counsel Rothman could have been referring.

Henry M. Coxe, III, Esquire
Ghenette Wright Muir, Esquire

January 16, 2015

There are also other emails of which Muir was not a recipient, but which were in the possession of the Bar at the time of the hearing on Muir's Motion to Quash. All of these should have been produced. These emails depict Stewart's apparent attempt to improperly use the JQC proceedings to collect restitution. For example, on January 9, 2014, Stewart writes to Rothman and urges the following:

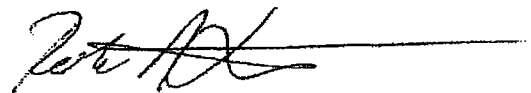
"I expect that there might be some pretty devastating findings in the JQC final order. If that is the case, I would hope that the Bar would be willing to intervene pursuant to Rule 3-4.5 to seek disbarment, restitution, and forfeiture. I think this rule has never been used before but this should be a paradigm case for it. If you liked the M&F brief, we would prepare a draft similar brief on the Watson matter for your consideration."

This email dated January 9, 2014, was not produced by you pursuant to the subpoena. This directly contradicts Mr. Coxe's statement on January 17, 2014 that every email communication with the Florida Bar from Mr. Stewart has been produced.

I call upon each of you to immediately prepare a schedule and produce all emails that were responsive to the subject subpoena and not produced. I also call upon you to advise whether you concur that you and the Bar failed to comply with the subpoena and made either intentional or negligent misrepresentations to the JQC regarding the status of the Bar's compliance.

I look forward to a prompt response inasmuch as my client is investigating her belief that a fraud upon her and the JQC has occurred and is researching her available legal options.

Very truly yours,



ROBERT A. SWEETAPPLE

RAS:cjb
Encl.

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING A JUDGE NO. 12-613
LAURA M. WATSON

SUBPOENA FOR VIDEOTAPED DEPOSITION DUCES TECUM OF NON-PARTY

To: Ghenete Wright Muir, Esquire
The Florida Bar
1300 Concord Terrace, Suite 130
Sunrise, Florida 33323

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the office of United Reporting, Inc. 1218 SE Third Avenue, Fort Lauderdale, FL 33316 (954-525-2221), on **Thursday, December 5, 2013, at 1:00 p.m.**, before United Reporting, Inc., Notary Public, State of Florida at Large, or any other officer authorized by law for the taking of your videotaped deposition.

If you fail to:

- 1) appear as specified; or
- 2) object to this subpoena,

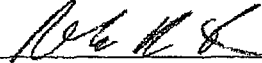
you may be in contempt of court. You are subpoenaed by the attorney whose name appears on this subpoena and unless excused from this subpoena by the attorney or the Court, you shall respond to this subpoena as directed.

DATED on November 25th, 2013

LAW OFFICES OF SWEETAPPLE, BROEGER & VARKAS, P.L.
165 EAST BOCA RATON ROAD, BOCA RATON, FLORIDA 33432-3911

Exhibit "A"


FOR THE COURT
SWEETAPPLE, BROEKER & VARKAS
Co-counsel for Judge Watson
165 East Boca Raton Road
Boca Raton, Florida 33432-3911
Telephone: (561) 392-1230
Email: Pleadings@sweetapplelaw.com

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by e-mail on this 12th day of November, 2013 to: The Honorable Laura M. Watson, Circuit Judge, 17th Judicial Circuit, Room 1005B, 201 SE 6th Street, Fort Lauderdale, Florida 33301 (Email: jwatson@17th.flcourts.org; ltucker@17th.flcourts.org); Miles A. McGrane, III, Esquire, The McGrane Law Firm, Special Counsel, One Datan Center, Suite 1500, 9100 South Dadeland Boulevard, Miami, Florida 33156 (Email: miles@mcgranelaw.com, lisa@mcgranelaw.com); Lauri Waldman Ross, Esquire, Counsel to the Hearing Panel of the JQC, Suite 1612, 9130 South Dadeland Boulevard, Suite 1612, Miami, Florida 33156 (Email: RossGirten@Laurilaw.com, Susie@Laurilaw.com); Michael L. Schneider, Esquire, General Counsel, 1110 Thomasville Road, Tallahassee, Florida 32303 (Email: mschneider@floridajqc.com; bkennerly@floridajqc.com).

Pursuant to FJQCR Rule 10(b) a copy is furnished by c-mail to: The Honorable Kerry I. Evander, Chair of the JQC, 300 S. Beach Street, Daytona Beach, Florida 32114 (Email: evanderk@flcourts.org).

By: 
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SC13-1333

INQUIRY CONCERNING JUDGE,
LAURA MARIE WATSON, NO. 12-613

TRANSCRIPT OF PROCEEDINGS
TELEPHONIC HEARING

DATE TAKEN: January 17, 2014
TIME: 2:00 - 3:35 p.m.
PLACE: 20 Southeast 3rd Street
Boca Raton, Florida
BEFORE: THE HONORABLE KERRY EVANDER

This cause came to be heard at the time and
place aforesaid, when and where the following
telephonic proceedings were reported by:

Cynthia R. Hewlett, Registered Professional Reporter

United Reporting, Inc.,
1218 Southeast 3rd Avenue
Fort Lauderdale, Florida, 33316
954-525-2221

United Reporting, Inc.
(954) 525-2221

Exhibit "B"

1 to make sure I have the dates right.

2 MR. COXE: I certainly apologize for that.
3 December, 2013.

4 So I notified Mr. Sweetapple that we were
5 going to be representing the Bar counsel and the
6 grievance committee, and that we were interested
7 in canceling the depositions of Ms. Ghenete
8 Wright Muir, as we reviewed the request for the
9 documents to determine -- because we had
10 preliminarily felt that there were a great many
11 documents that he was entitled to under various
12 public records and Bar rules. And over a period
13 of time in the month of December, we spent a
14 significant amount of time with the Florida Bar
15 going through their records.

16 That prompted, on the 23rd of December, our
17 Federal Express delivery to Mr. Sweetapple's
18 office of in excess of 3,000 documents. Those
19 3,000 documents include -- and I will say -- and
20 I don't think it's self-serving -- that we were
21 making the decisions coming down in favor of
22 Mr. Sweetapple, when in doubt, we would give them
23 to Mr. Sweetapple. It included every e-mail
24 communication to the Florida Bar from Mr. Stewart
25 or other persons in Mr. Stewart's office that

United Reporting, Inc.
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1 related to Judge Watson.

2 It included everything that Judge Watson
3 would have been entitled to had she still been a
4 lawyer in defending against the Bar accusations.

5 We also told Mr. Sweetapple that we would
6 provide to him a privilege log, to the extent
7 that we felt there were documents that would be
8 privileged.

9 In the initial arguments that we were
10 listening to, there was a reference to what the
11 JQC had from the Florida Bar.

12 In Exhibit D of the motion we filed, if Your
13 Honor wanted to take a look at it, Exhibit 58 is
14 the complete set of materials that the Florida
15 Bar provided to the Judicial Qualifications
16 Commission. And the letter that was referenced
17 earlier was the cover letter by Mr. Ken Marvin to
18 the Judicial Qualifications, informing them of
19 that.

20 We knew that a great many of these documents
21 had already been provided to Judge Watson. In
22 part, because Florida Bar rules had required it
23 prior to the convening of the grievance committee
24 meeting. And those are all found, for the most
25 part, in Exhibits 35 through 37 of our Exhibit D.

United Reporting, Inc.
(954) 525-2221

From: John G. White, III
To: William C. Hearon
Cc: Kenneth L. Marvin
Subject: RE: Grievance Update
Date: 02/24/2009 12:46 PM

Bill, I have forwarded your email to Ken Marvin at the Florida Bar. Mr. Marvin will be getting in touch with you about this matter. Thanks

From: William C. Hearon [mailto:bill@williamhearon.com]
Sent: Monday, February 23, 2009 7:41 PM
To: John G. White, III
Cc: Larry Stewart
Subject: RE: Grievance Update

Jay: Since our last e-mail, the grievance process has bogged down again. If you recall, the grievances were filed against 6 attorneys (see below e-mail string). We have been pushing to get the committee to first and separately consider the violations of Rule 5-1.1 (f) since the work to reach a conclusion on these violations could be addressed in a single meeting. I have provided to Mr. Pascal and the two investigating members with all of the evidence necessary to have a hearing by the committee. As I understood it, Mr. Pascal was going to have the committee vote if they wanted to hear the issues regarding violations of Rule 5-1.1 (f) separately. Why the committee would need to vote on that is beyond me. It would seem that where there is a clear-cut violation regarding THE FAILURE TO KEEP FUNDS IN TRUST, the Bar should require the committee to address that issue quickly and directly, separate from other issues that may be more complex. Unfortunately, the Committee meeting for January was cancelled. **I believe that the next meeting is tomorrow afternoon.**

We are 10 months from the Court's ruling that was forwarded to the Bar and there has been no real movement. The Rule 5-1.1 (f) violation is literally a no brainer. I am forwarding four e-mails to you that I have sent to Mr. Pascal and the two investigating members (three on 1/13 and one tonight).

Two of the lawyers have now filed for personal bankruptcy (Charles Kane and Harley Kane) and have filed bankruptcy for their law partnership as well. Ms. Laura Watson's testimony from a February 11th deposition regarding her Rule 5-1.1 (f) violation is the fourth e-mail. The other three attorneys involved are Darin Lentner, Gary Marks and Amir Fleischer.

I look forward to hearing from you. Thanks and best regards. Bill

William C. Hearon, Esq.
William C. Hearon, P.A.
1 S.E. Third Ave., Suite 3000
Miami, Florida 33131
Ph: 305-579-9813
Fax: 305-358-4707
e-mail: bill@williamhearon.com

From: John G. White, III [mailto:jwhite@richmangreer.com]
Sent: Tuesday, November 25, 2008 4:48 PM
To: William C. Hearon
Cc: Larry Stewart
Subject: RE: Grievance Update

Great Bill. Glad to see things appear to be moving towards whatever the outcome might be. Have a great Thanksgiving also.

Exhibit "C"

From: William C. Hearon [mailto:bill@williamhearon.com]
Sent: Tuesday, November 25, 2008 4:18 PM
To: John G. White, III
Cc: Larry Stewart
Subject: Grievance Update

Jay: After our call I had an opportunity to finally speak with Alan Pascal, Esq., bar counsel in the Ft. Lauderdale office. He started out by telling me how involved the case is, how many pieces of correspondence had been filed by counsel for the parties, etc. as a justification for the fact that nothing had occurred in 6 months. I told him that I was unhappy with the lack of any progress and that my experience on a grievance committee was to the contrary. He then told me that the Committee could elect to defer consideration of the grievance until after the completion of the appellate process. He has since forwarded to me a copy of the Bar's Standing Board Deferral Policy. The policy speaks to the fact that the Bar should not allow the grievance procedure to act as a substitute for civil proceedings. In his words, the Bar should not allow one party to use the grievance process to leverage the other party in litigation.

I pointed out to him that the original "grievance" came from Judge Crow's Final Judgment ... which undercut his argument. In addition, I pointed out that one of the major issues was the failure of the 6 attorneys to place in escrow monies that were in dispute, as required under 5-1.1 (f). The funds are to be held in trust until the dispute as to ownership is resolved. I told him that there was no issue that the attorneys were put on notice, no issue that they failed to hold the monies in trust, no issue that they disbursed the funds, no issue that a final judgment has been entered awarding significant sums to us, and no issue as to one firm and two lawyers that they have now filed for bankruptcy. The investigation of this issue would take no time at all and is hardly complicated.

By the end of the conversation, Mr. Pascal indicated that he would not allow the grievance claims to be deferred and that he would assign an investigating member to the grievances at tonight's meeting. I asked that he call me tomorrow with the name of the investigating member. He also said that he would arrange a meeting over the next two weeks so that he and the investigating member can meet with me and Larry Stewart.

So, for the time being, I'd like you to just sit tight and let's see if the case gets assigned and things progress. If the case doesn't get assigned, I'll send you a detailed outline of the case and the issues.

Thanks, and I'll keep you updated. Happy Thanksgiving. Bill

William C. Hearon, Esq.
William C. Hearon, P.A.
1 S.E. Third Ave., Suite 3000
Miami, Florida 33131
Ph: 305-579-9813
Fax: 305-358-4707
e-mail: bill@williamhearon.com

Richman Greer P.A.



John G. White, III
Shareholder
One Clearlake Centre
Suite 1504
250 Australian Avenue South
West Palm Beach, Florida 33401

Office: 561.803.3500
Fax: 561.820.1608
Direct: 561.803.3521
Email: jwhite@richmangreer.com
www.richmangreer.com

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John G. White, III
Shareholder
One Clearlake Centre
Suite 1504
250 Australian Avenue South
West Palm Beach, Florida 33401

Office: 561.803.3500
Fax: 561.820.1608
Direct: 561.803.3521
Email: jwhite@richmangreer.com
www.richmangreer.com

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Henry Cox - Re: Honorable Laura M. Watson

From: Henry Cox
To: Bailey, Cynthia; gwrightmuir@flabar.org
Date: 1/21/2015 5:22 PM
Subject: Re: Honorable Laura M. Watson
CC: Nelson, Melissa W.; Sweetapple, Robert
BC: Cox, Henry; apascal@flabar.org; aquintel@flabar.org

Ms. Bailey:

Please advise Mr. Sweetapple that, in order to provide a response to his letter of January 16, 2015, he please provide a complete copy of the January 17, 2014 transcript; advise as to whether any of the materials he identifies in Exhibit "C" are materials not already provided to Ms. Watson's counsel by the Bar; and whether there exist any e-mails not previously produced other than e-mails to or from John G. White, III.

With respect to materials already provided to Mr. Sweetapple by the Bar, by example, I need to know if, in his Exhibit "C" and in his cover letter, the e-mails involving Mr. Pascal which he describes were not already provided to him.

Thanking you in advance,

Hank Cox



HENRY M. COXE, III
BOARD CERTIFIED CRIMINAL TRIAL LAWYER

BEDELL, DITTMAR, DEVAULT, PILLANS & COXE, P.A.
Phone: (904) 353-0211 x137 | **Fax:** (904) 353-9307 | hmc@bedellfirm.com
The Bedell Building | 101 East Adams Street | Jacksonville, Florida 32202

>>> Cynthia Bailey <cbailey@sweetapplelaw.com> 1/16/2015 5:12 PM >>>
Goof afternoon,

Please see attached correspondence from Robert Sweetapple. Thank you.

CYNTHIA J. BAILEY
Certified Paralegal/Florida Certified Paralegal/Florida Registered Paralegal
Sweetapple, Broeker & Varkas, P.L.

20 SE 3rd Street
Boca Raton, FL 33432
(561) 392-1230(t) x. 305
(561) 394-6102(f)
cbailey@sweetapplelaw.com

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Henry Coxe - Watson

From: Cynthia Bailey <cbailey@sweetapplelaw.com>
To: "HMC@bedellfirm.com" <HMC@bedellfirm.com>
Date: 1/23/2015 10:52 AM
Subject: Watson
CC: Robert Sweetapple <rsweetapple@sweetapplelaw.com>
Attachments: Coxe.let re emails.1.23.15.pdf

Mr. Coxe,

Please see attached correspondence from Bob Sweetapple. Thank you.

CYNTHIA J. BAILEY

Certified Paralegal/Florida Certified Paralegal/Florida Registered Paralegal
Sweetapple, Broeker & Varkas, P.L.

20 SE 3rd Street

Boca Raton, FL 33432

(561) 392-1230(t) x. 305

(561) 394-6102(f)

cbailey@sweetapplelaw.com

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LAW OFFICES OF
SWEETAPPLE, BROEKER & VARKAS, P.L.

DOUGLAS C. BROEKER, P.A.
44 West Flagler Street, Ste. 1500
Miami, Florida 33130-6817
Telephone: (305) 374-5623
Facsimile: (305) 358-1023

ROBERT A. SWEETAPPLE *, **
DOUGLAS C. BROEKER
ALEXANDER D. VARKAS, JR.
KADISHA D. PHELPS
ALEXANDER D. VARKAS, III
ASHLEIGH M. GREENE

* BOARD CERTIFIED BUSINESS LITIGATION ATTORNEY
** BOARD CERTIFIED CIVIL TRIAL ATTORNEY

SWEETAPPLE & VARKAS, P.A.
20 S.E. 3rd Street
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Telephone: (561) 392-1230
Facsimile: (561) 394-6102

Please Reply To: Boca Raton
E-Mail:
rsweetapple@sweetapplelaw.com
avarkas@sweetapplelaw.com
ajvarkas@sweetapplelaw.com
cbailey@sweetapplelaw.com
dsmith@sweetapplelaw.com

Paralegals:
Cynthia J. Bailey, CP, FCP, FRP
Deborah Smith, CP, FRP
Jamie Arden, FRP

January 23, 2015

SENT VIA E-MAIL

Henry M. Coxe, III, Esquire
BEDELL, DITTMAR, DEVAULT, PILLANS & COXE, P.A.
The Bedell Building
101 East Adams Street
Jacksonville, Florida 32202

Re: Case No.: SC13-1333; Judge Laura M. Watson

Dear Hank:

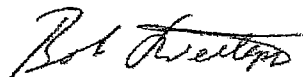
It was a pleasure speaking with you the other day. As I explained, this matter has become very disturbing.

Enclosed is a sampling of some of the emails I have since obtained that were clearly responsive to my subpoena, but were not provided.

Mr. Stewart was the main witness called by the JQC. These emails should have been available to support my discovery motions and for examination and cross of Mr. Stewart. I have located numerous other withheld emails that I am reviewing.

The extent of Mr. Stewart's involvement with the Bar prosecution is alarming. I am pursuing a public records request against the Bar. In the meantime please advise of all responsive emails that were withheld by the Bar and advise what the Bar intends to do about this failure to comply with the previous subpoena.

Very truly yours,



ROBERT A. SWEETAPPLE

RAS:cjb
Encl.

From: Larry Stewart
To: 'Kenneth L. Marvin'
Subject: RE: 2004 15.55
Date: 10/31/2013 03:07 PM

Thx Is there anything I can cite to where this would be found?

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Wednesday, October 30, 2013 11:38 AM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: 2004 15.55

I was able to find the 2004 version of 15.55. It did not exist is 2003

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

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----- Forwarded by Kenneth L. Marvin/The Florida Bar on 10/30/2013 11:35 AM -----

From: Ramon Chavez/The Florida Bar
To: Kenneth L. Marvin/The Florida Bar@FLABAR
Date: 10/30/2013 11:32 AM
Subject: New Document

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anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

From: Larry Stewart
To: 'Kenneth L. Marvin'
Subject: RE: SBP 15.55
Date: 10/30/2013 10:23 AM

What's so strange is that Respondents' counsel argued that in 2004 there was no deferral "language" in the Rules and that it was not added until 2008. In other words he was saying that the Bar couldn't defer. Maybe he didn't understand or was simply trying to confuse the Referee. I haven't had a chance to review the various amendments to the Rules but it would seem that if there was a SBP in effect then there also should have been a Rule.

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Wednesday, October 30, 2013 9:27 AM
To: Larry Stewart
Subject: RE: SBP 15.55

Yes, there was a deferral policy in place before 2005 and with slight changes continues today.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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From: Larry Stewart <lssstewart@stflaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>
Date: 10/30/2013 09:13 AM
Subject: RE: SBP 15.55

So I take it would be fair to say that, in substance, there was a SBP for deferral of Bar cases pending the outcome of underlying litigation that pre-dated the PIP lawyers cases. Do you agree?

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Wednesday, October 30, 2013 8:27 AM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: SBP 15.55

Larry,

We used to receive annual hard copies of the SBPs but now they are on-line. I was

able to find a 2005 hard copy and below is that year's version of 15.55

In that year, even though the policy is labeled "deferral", the verbiage dictates that we would close the file. The most recent change places the file on monitor status reflecting a true deferral and not a closure subject to re-opening.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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----- Forwarded by Kenneth L. Marvin/The Florida Bar on 10/30/2013 08:09 AM -----

From: Ramon Chavez/The Florida Bar
To: Kenneth L. Marvin/The Florida Bar@FLABAR
Date: 10/30/2013 08:05 AM
Subject: New Document

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Subject: RE: SBP 15.55
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Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

✓ Larry Stewart ---10/30/2013 09:13:07 AM---So I take it would be fair to say that, in substance, there was a SBP for deferral of Bar cases pend

From: Larry Stewart <lsstewart@stflaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>
Date: 10/30/2013 09:13 AM
Subject: RE: SBP 15.55

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Subject: SBP 15.55

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Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation

651 E. Jefferson Street
Tallahassee, Florida 32399

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To: Kenneth L. Marvin/The Florida Bar@FLABAR
Date: 10/30/2013 08:05 AM
Subject: New Document

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To: 'Kenneth L. Marvin'
Subject: RE: SBP 15.55
Date: 10/30/2013 09:13 AM

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From: Kenneth L. Marvin
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: SBP 15.55
Date: 10/30/2013 08:27 AM
Attachments: 00ric-4h.pdf

Larry,

We used to receive annual hard copies of the SBPs but now they are on-line. I was able to find a 2005 hard copy and below is that year's version of 15.55


In that year, even though the policy is labeled "deferral", the verbiage dictates that we would close the file. The most recent change places the file on monitor status reflecting a true deferral and not a closure subject to re-opening.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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----- Forwarded by Kenneth L. Marvin/The Florida Bar on 10/30/2013 08:09 AM -----

From: Ramon Chavez/The Florida Bar
To: Kenneth L. Marvin/The Florida Bar@FLABAR
Date: 10/30/2013 08:05 AM
Subject: New Document

 - 00rjc-4h.pdf

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out-of-pocket expenses incurred in connection with disciplinary investigations.

- 15.50 Administration of Admonishments.** The Rules Regulating The Florida Bar authorize the administration of admonishments before the grievance committee, before a referee, before the Supreme Court of Florida or before the board of governors. It is the policy of The Florida Bar to request that all admonishments be administered other than by appearance before the board of governors. However, recognizing that if circumstances exist to warrant administration before the board of governors, the board authorizes same upon proper explanation satisfactory to the board of governors member designated to review the actions of that particular committee.

In the event of administration by appearance before a grievance committee, the admonishment may be administered by the chair or vice chair of the grievance committee or the board of governors member designated to review the actions of that particular committee. In any event, a prepared text of the admonishment shall be drafted by bar counsel and filed as a memorandum of administration of the admonishment. A copy of the prepared admonishment shall be served on or made available to the respondent.

15.55 Deferral of Disciplinary Investigation During Civil or Criminal Proceedings

As a general rule, disciplinary investigations should be conducted with dispatch. However, because some individuals may attempt to use the disciplinary process as a tool to obtain leverage in a civil proceeding that is pending in court, or a criminal defendant may attempt to manipulate the trial process by interjecting frivolous allegations of unethical conduct against prosecuting or defense counsel, there are instances in which the disciplinary process should subjugate itself to the civil or criminal courts.

The Supreme Court of Florida has ruled that the disciplinary process and proceedings are not to be used as a substitute for civil proceedings and remedies. *See, The Florida Bar v. Della-Donna*, 583 So.2d 307 (Fla.1989). This holding rationally applies in criminal proceedings as well.

The authority of the board of governors to defer or suspend disciplinary investigations is provided in rule 3-7.4(e), Rules Regulating The Florida Bar. Therefore, in order to define those instances when deferral is appropriate, this policy is enacted.

Deferral in Civil Cases

When an inquiry or disciplinary complaint is filed and the conduct involves an ongoing civil litigation, bar counsel shall analyze the complaint and determine if the issues involved are of the sort that they may be adjudicated in the civil litigation. If so, bar counsel may, with the concurrence of the chief branch discipline counsel, close the file and defer investigation of the disciplinary complaint until such time as the civil litigation has concluded.

From: Larry Stewart
To: 'Kenneth L. Marvin'
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: RE: Rule 3-7.4 & Standing Board Policy
Date: 10/29/2013 07:52 PM

Thx. I will research the Rule through the cases. Do you know where I can find the language for the various versions of 15.55? What I am trying to pin down is whether the authority to defer existed at the relevant times for these cases. Minor changes in the Rule or Policy doesn't make any difference as long as the basic authority was in place.

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Tuesday, October 29, 2013 7:43 AM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: Re: Rule 3-7.4 & Standing Board Policy

Larry,

Below is the history of 3-7.4. I have not looked up the cases, but I do have copies of the old rules if you need them

Former Rule 3-7.3 renumbered as Rule 3-7.4 and amended March 16, 1990, effective March 17, 1990 (558 So.2d 1008); amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); Oct. 20, 1994 (644 So.2d 282); June 27, 1996, effective July 1, 1996 (677 So.2d 272); Feb. 8, 2001 (795 So.2d 1); April 25, 2002 (820 So.2d 210); October 6, 2005, effective January 1, 2006 (SC05-206) (916 So.2d 655); November 19, 2009, effective February 1, 2010, (SC08-1890), (34 Fla.L.Weekly S628a); amended July 7, 2011, effective October 1, 2011 (SC10-1968).

As to 15.55, here is the history

History

Amended January 30, 2004; August 13, 2004; December 10, 2004; June 1, 2007; May 28, 2010, effective June 28, 2010.

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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From: Larry Stewart <lsstewart@stflaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>

Date: 10/29/2013 06:56 AM
Subject: Rule 3-7.4 & Standing Board Policy

Ken: I am trying to determine when Rule 3-7.4(e) and Bd of Gvs Standing Board Policy 15.55(b) were adopted or went into effect. There was some vague reference by Marks & Fleischer's attorney at the argument on the M/Dismiss that the Rule and/or the Board Policy was adopted after the deferral of prosecution in their cases and therefore did not apply. For your reference, the complaint which started these actions was filed with the Bar on April 30, 2008. There were some delays due to a pending M/Rehearing in the underlying case and requested extensions so I don't know exactly when the deferral decision was made but that decision was affirmed by the Bd of Gvs on April 13, 2009.

I would appreciate it if you could have someone track down (1) when the rule was adopted and/or went into effect and (2) when the Bd of Gvs adopted the Standing policy.

Thx.

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From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: Emily Sanchez; David Rothman
Subject: Rehearing Order
Date: 10/23/2013 01:50 PM

Has an Order been entered on the Pet/Rehearing? If so, please send me a copy.

Ditto on the M/Stike

From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: Emily Sanchez
Subject: Transcript M/SJ Hearing
Date: 10/22/2013 09:40 AM

Have you rec'd a transcript from the K & K M/SJ hearing yet? If so, please send me a copy

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

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From: Larry Stewart
To: 'Kenneth L. Marvin'
Subject: RE: Judges' Manual
Date: 10/21/2013 08:57 AM

Thx

From: Kenneth L. Marvin [mailto:kmarvin@flabar.org]
Sent: Monday, October 21, 2013 7:55 AM
To: Larry Stewart
Subject: RE: Judges' Manual

Here ya go

Kenneth L. Marvin
Staff Counsel
Director, Lawyer Regulation
651 E. Jefferson Street
Tallahassee, Florida 32399

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From: Larry Stewart <lssewart@stflaw.com>
To: "Kenneth L. Marvin" <kmarvin@flabar.org>
Date: 10/19/2013 08:14 PM
Subject: RE: Judges' Manual

Ken: You previously sent me the Manual for judges in grievance cases. Somehow I managed to lose it off my computer. Could you please resend me a copy? Thx.

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From: Larry Stewart
To: Adria Quintela
Cc: 'DBR@RothmanLawyers.com'; Ghenete Wright Muir; Alan Pascal; 'Todd Stewart (Todd@trialcounselor.com)'; William C. Hearon
Subject: RE: Marks and Fleischer Appeal
Date: 10/15/2013 01:07 PM

Adria:

I have been thinking more about when the appeal must be filed and have discussed it with some friends. As I note below, the Rules are ambiguous concerning a Report following a dismissal. There is no express rule for that and Rule 3-7.7 refers to both "a report of a referee and a judgment." That seems to contemplate an appeal from a judgment without a referee report. The Rules also don't expressly authorize a M/Rehearing, so respondents could argue that the M/Rehearing in this case did not toll the time for filing a Petition for Review. In other words, unless there is some clear authority on point, an argument can be made that the time to appeal a dismissal starts running from the date of the Order, here 9/9/13. If there is no such authority and I was representing those guys, I would make the argument and we should count on them to do likewise.

This is something that you may have already thought of but there isn't much time left to take that issue off the table. In other words, to be on the safe side, the Petition for Review should be filed on or before Nov. 8th (60 days from the date of the order of dismissal). That also makes it critical to get an "agenda item" to the Bd of Gvs as soon as possible; it might even need to go to the Exec Comm since there probably isn't a Bd meeting before Nov. 8th.

Larry S. Stewart
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One S.E. Third Avenue, Suite 3000
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Telephone (305) 358-6644
Fax (305) 358-4707

From: Larry Stewart
Sent: Monday, October 14, 2013 4:51 PM
To: 'Adria Quintela'
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal; Todd Stewart (Todd@trialcounselor.com); William C. Hearon
Subject: RE: Marks and Fleischer Motion for Rehearing

Adria:

I read the transcript. There is nothing to indicate that the judge understands his obligation to produce a report and record to send to the Fla Sup Ct. The Rules in that regard are somewhat ambiguous. Rule 3-7.6(m) requires a report within 30 days of a trial but there is nothing dealing with a dismissal. I assume that the same would apply to a dismissal but that is not clear and from his comments in the transcript the judge may be thinking that the Bar will simply appeal his order. Has this been discussed with him? Otherwise we could wait a long time to get this appeal underway. Perhaps a letter to him (with copy to opposing counsel) pointing out the rule and also

that under Rule 3-7.6(n) Bar counsel will assist him even though his ruling was adverse.

Also, as I understand the procedure your office needs to prepare an "agenda item" for the Bd of Govs recommending an appeal and stating the reasons for that recommendation. Is that something that can be drafted now so it is ready to go as soon as a proper report is filed?

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

Good afternoon Larry,
The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Larry Stewart
To: 'Kenneth L. Marvin'; John T Berry; 'jharkness@flabar.org'
Cc: 'dbr@rothmanlawyers.com'; William C. Hearon; Todd Stewart
Subject: FW: Fla Bar v. Gary Marks & Amir fliescher Appeal
Date: 10/15/2013 11:01 AM

Ken:

I assume that you know the referee denied the M/Rehearing and we now have to go to the Supreme court. In that regard, I would like to urge the appointment of Special Counsel to handle the appeal

I know that in the past Bar counsel have handled appeals but I doubt that many, if any, involved the complexities of this case. While at first blush this might appear to be a slam dunk, it is anything but a certain reversal and writing the brief and arguing this case to the Court is going to require someone with specific appellate advocacy skills. As far as Bar counsel is concerned, I suggest it would be imprudent to have the office that dropped the ball on this motion write the brief and argue the matter before the court. Not only would it be awkward for them to explain in the brief how the original hearing was botched but it would also be very difficult to appear in front of the Court to argue this appeal. That is a reason why in many cases trial counsel does not handle the appeal.

Moreover, from reading the transcript, I am still not convinced that Bar counsel yet understands the issues involved. For example when the judge raised the point that Marks and Fleischer's lawyer did not object to the deferral of the case pending the appeal (p. 43)-- thereby potentially tolling the SOL -- Bar counsel allowed it to be brushed off as just a reference to the "reviewer." And, when the judge ruled that the Bar was not on notice of the violations until 2008 (p. 48), Bar counsel did not make the point that the Formal Complaint was filed in 2013, just five years later. Nor did they bring to the judges' attention that the JQC had denied a motion to dismiss in the Laura Watson case the was based in part on the SOL (even though they told me that they were going to do so). I had provided Bar counsel with an Addendum to the M/Rehearing on the Watson ruling but they did not file it so there is nothing in the record on that point; in other words, the point is now lost unless Watson tries some sort of interlocutory appeal. I don't like having to report these things but I think it is necessary for you to know as you consider how to proceed.

Writing the brief in this appeal is going to require a lot of skill. Aside from the basic arguments the brief will have to

1. Finesse the fact that there was no record or substantive argument at the original hearing. That all came up on the M/Rehearing and, as I feared, the respondents' lawyers were all over the fact that the Bar was supplementing the record on rehearing with new matters and new arguments.

2. Cover all the "laches" issues. While the judge said at the rehearing that he was not ruling on the basis of laches -- probably because he realized that he made a big mistake in his original order -- that does not mean that the respondents will not attempt to revive the point. In addition, the judge also denied the M/Strike all of the evidence that the respondents submitted. He was obviously trying to straddle the issue and we should use his screw-up to subtly suggest that he doesn't know what he is doing.

3. Cover the so-called constitutional "due process" point. This was the judge's fall back justification for the dismissal and it needs to be carefully and fully destroyed.

I think David Rothman has an appellate lawyer in his office but I don't know if his appointment includes this aspect. If it does, I suggest this is not a matter in which Bar counsel should write the brief subject to David's review; This appeal needs fresh thinking and is going to require some real finesse in dealing with the new matters in the M/Rehearing. There are of course many highly skill Florida appellate advocates. Sylvia Walbolt and Sandy D'Alemberte (although this may not be up his alley) are two obvious ones. There are several others currently serving on the Fla. Supreme Court civil Jury Inst Comm. And I know several in the So Fla area.

Please let me know how you intend to handle this.

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From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: 'dbr@rothmanlawyers.com'
Subject: Order on Rehearing.
Date: 10/15/2013 09:58 AM

I rec'd the transcript. Do you have the Order denying Rehearing? If so, please send me a copy.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

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From: Larry Stewart
To: Adria Quintela
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal; Todd Stewart (Todd@trialcounselor.com); William C. Hearon
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/14/2013 04:51 PM

Adria:

I read the transcript. There is nothing to indicate that the judge understands his obligation to produce a report and record to send to the Fla Sup Ct. The Rules in that regard are somewhat ambiguous. Rule 3-7.6(m) requires a report within 30 days of a trial but there is nothing dealing with a dismissal. I assume that the same would apply to a dismissal but that is not clear and from his comments in the transcript the judge may be thinking that the Bar will simply appeal his order. Has this been discussed with him? Otherwise we could wait a long time to get this appeal underway. Perhaps a letter to him (with copy to opposing counsel) pointing out the rule and also that under Rule 3-7.6(n) Bar counsel will assist him even though his ruling was adverse.

Also, as I understand the procedure your office needs to prepare an "agenda item" for the Bd of Gvs recommending an appeal and stating the reasons for that recommendation. Is that something that can be drafted now so it is ready to go as soon as a proper report is filed?

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

Good afternoon Larry,

The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
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From: Adria Quintela
To: Larry Stewart
Bcc: Ghenete Wright Muir
Subject: Re: Kanes Motion for Summary
Date: 10/11/2013 03:56 PM

I don't think they will have anything to share other than what they told me which is that the judge appeared a bit more favorable to us as is evident from his ruling, but you can read the transcript and see if you gather something more from that. He entertained extensive argument by both sides, retired to consider his ruling, and then ruled.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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✓ Larry Stewart ---10/11/2013 03:52:27 PM---I would still like to talk to Ghenette or Alan to see if any insights to judge Thanks.

From: Larry Stewart <lsstewart@stflaw.com>
To: Adria Quintela <aquintel@flabar.org>
Date: 10/11/2013 03:52 PM
Subject: Re: Kanes Motion for Summary

I would still like to talk to Ghenette or Alan to see if any insights to judge

Thanks,

Larry Stewart

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On Oct 11, 2013, at 3:47 PM, "Adria Quintela" <aquintel@flabar.org> wrote:

Good afternoon Larry,
I wanted to inform you that we prevailed in defeating the respondents' Motion for Summary Judgment. Ghenete and Alan

argued extensively and the referee agreed that summary judgment was not appropriate. We ordered the transcript and I will send you a copy of the same when it is ready.

We have not yet received the transcript on the motion for rehearing. Once I receive that I will also send you a copy of that.

Please let me know if you need anything else. Thank you.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org<mailto:aquintel@flabar.org>

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From: [Adria Quintela](#)
To: lstewart@stflaw.com
Cc: DBR@RothmanLawyers.com; [Alan Pascal](#); [Ghenete Wright Muir](#); [Emily Sanchez](#)
Subject: Kanes Motion for Summary
Date: 10/11/2013 03:47 PM

Good afternoon Larry,
I wanted to inform you that we prevailed in defeating the respondents' Motion for Summary Judgment. Ghenete and Alan argued extensively and the referee agreed that summary judgment was not appropriate. We ordered the transcript and I will send you a copy of the same when it is ready.

We have not yet received the transcript on the motion for rehearing. Once I receive that I will also send you a copy of that.

Please let me know if you need anything else. Thank you.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Subject: SJ hearing
Date: 10/11/2013 12:24 PM

Please call. I would like to hear about the SJ hearing yesterday.

Have you rec'd the transcript from the hearing on the M/Rehearing yet?

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From: David Rothman
To: Larry Stewart; Adria Quintela
Cc: Ghenete Wright Muir; Alan Pascal; William C. Hearon; Todd Stewart
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 05:12 PM

Larry,

Good afternoon. I just returned from a meeting at Bar Counsels' office in Sunrise. With my associate, Jeanne Melendez, I was given an overview of the cases and provided a box of relevant documents. Although I do not expect to be totally up to speed for a while, I have begun to dig into the box to continue my education about the cases. If you would like to meet with me, I will make myself available tomorrow or Thursday. I would prefer to do it in my office if that is ok with you. I am in the Southeast Financial Center in Suite 2770. Assuming this first meeting can be kept to one hour, tomorrow I can meet at 8:30, or anytime between 11:00 and 3:00, when I have a scheduled meeting on another matter. Thursday, I am ok anytime in the morning except I have a teleconference that will last about 30 minutes starting at 10:00.

David

David B. Rothman
Board Certified Criminal Trial Lawyer
Rothman & Associates, P.A.
Prosecution and Star Defense
Suite 2770
Southeast Financial Center
200 S. Biscayne Blvd.
Miami, FL 33131
Tel: 305.358.9000
email: dbr@rothmanlawyers.com
website: RothmanLawyers.com

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From: Larry Stewart [mailto:lsstewart@stfblaw.com]
Sent: Tuesday, October 08, 2013 4:56 PM
To: 'Adria Quintela'
Cc: David Rothman; Ghenete Wright Muir; Alan Pascal; William C. Hearon; Todd Stewart
Subject: RE: Marks and Fleischer Motion for Rehearing

Please send me a copy of the transcript as soon as it is available.

How soon can the appeal get underway? I understand that the referee has to make a recommendation. What can you do to expedite that process?

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

Good afternoon Larry,

The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
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From: Adria Quintela
To: Larry Stewart
Cc: Alan Pascal; William C. Hearon; Ghenete Wright Muir; Todd Stewart; Emily Sanchez
Subject: Re: M/Consolidate
Date: 10/08/2013 05:03 PM

It is not scheduled yet. We are discussing that, among other things, with David Rothman. I will let you know.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

▼ Larry Stewart ---10/08/2013 04:58:20 PM---When is the M/Consolidate set for hearing? Please note: Florida has very broad public records laws.

From: Larry Stewart <lsstewart@stflaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>, Alan Pascal <APascal@flabar.org>, Ghenete Wright Muir <GWrightMuir@flabar.org>
Cc: "William C. Hearon" <bill@williamhearon.com>, Todd Stewart <Todd@trialcounselor.com>
Date: 10/08/2013 04:58 PM
Subject: M/Consolidate

When is the M/Consolidate set for hearing?

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From: Adria Quintela
To: Larry Stewart
Cc: Alan Pascal; William C. Hearon; DBR@RothmanLawyers.com; Ghenete Wright Muir; Todd Stewart; Emily Sanchez
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 05:02 PM

I will as soon as we have it. The referee has to enter his Order granting the dismissal, then sign off on a Report of Referee. There is not much we can do to expedite that process as it is outside our control. Once he signs his Report of Referee we prepare an agenda item which will go to the Board of Governors seeking approval to appeal. We will then file a Petition for Review on the Report of Referee, brief the case, and await for the Supreme Court to rule.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

Larry Stewart ---10/08/2013 04:56:56 PM---Please send me a copy of the transcript as soon as it is available. How soon can the appeal get unde

From: Larry Stewart <lsstewart@stfbllaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>
Cc: "DBR@RothmanLawyers.com" <DBR@RothmanLawyers.com>, Ghenete Wright Muir <GWrightMuir@flabar.org>, Alan Pascal <APascal@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, Todd Stewart <Todd@trialcounselor.com>
Date: 10/08/2013 04:56 PM
Subject: RE: Marks and Fleischer Motion for Rehearing

Please send me a copy of the transcript as soon as it is available.

How soon can the appeal get underway? I understand that the referee has to make a recommendation. What can you do to expedite that process?

From: Adria Quintela [mailto:aquintel@flabar.org]
Sent: Tuesday, October 08, 2013 4:27 PM
To: Larry Stewart
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
Subject: Marks and Fleischer Motion for Rehearing

Good afternoon Larry,
The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel

in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Larry Stewart
To: Adria Quintela
Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal; William C. Hearon; Todd Stewart
Subject: RE: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 04:56 PM

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Sent: Tuesday, October 08, 2013 4:27 PM
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Cc: DBR@RothmanLawyers.com; Ghenete Wright Muir; Alan Pascal
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Chief Branch Discipline Counsel
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From: [Adria Quintela](#)
To: lsstewart@stflaw.com
Cc: DBR@RothmanLawyers.com; [Ghenete Wright Muir](#); [Alan Pascal](#)
Bcc: [Kenneth L. Marvin](#)
Subject: Marks and Fleischer Motion for Rehearing
Date: 10/08/2013 04:26 PM

Good afternoon Larry,
The judge denied our Motion for Rehearing. We will appeal his recommendation. David Rothman has agreed to act as Special Counsel in this matter and assist the bar. He will be contacting you in the next day or two.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Larry Stewart
To: Adria Quintela; Alan Pascal; Ghenete Wright Muir
Cc: 'kmarvin@flabar.org'; William C. Hearn; Todd Stewart
Subject: FW: SERVICE OF COURT DOCUMENT; SC13-388, SC13-389
Date: 10/07/2013 05:42 PM
Importance: High
Attachments: Object_43BD6AE_0.PDF

I don't understand the unwillingness to discuss changes. Most were stylistic which I don't have a problem with. The change to footnote # 4, p. 9 is wrong. Disputed facts was only 1 of several reasons why the motion was denied. As changed it makes it seem like disputed facts was the only reason the motion was denied. That however is not a fatal point.

From: Emily Sanchez [mailto:ESanchez@flabar.org]
Sent: Monday, October 07, 2013 2:31 PM
To: stozian@smithtozian.com; email@smithtozian.com
Cc: Kenneth L. Marvin
Subject: SERVICE OF COURT DOCUMENT; SC13-388, SC13-389
Importance: High

The Florida Bar v. Charles Jay Kane & Harley Nathan Kane
The Florida Bar File No. 2008-51,559(17B), 2008-51,562(17B)
Supreme Court Case Nos. SC13-388 and SC13-389

Please see attached:

TFB Memo. in Opposition to Kane's Mot. for Summary Judgement 10/07/2013

.....
Emily Sanchez
Assistant to Ghenete Wright Muir
Lawyer Regulation - Fort Lauderdale
ph. (954) 835-0233 ext. 4124
fax (954) 835-0133
esanchez@flabar.org

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[Please disregard the prior e-mail on this subject. I hadn't quite finished and inadvertently hit the Send button. Here is the full message.]

Dear Ken:

I fear that we are headed for another disaster in these cases. On this coming Thur the Kanes M/SJ is set for hearing. This should be a slam dunk winner for the Bar but, like the M/Dismiss on the SOL, once again Bar counsel is refusing to dismiss strategy in advance of the hearing and may again be making some huge mistakes.

When the motion was filed, Bar counsel asked for an aff't. Since they still not yet started to learn the facts and exhibits I prepared both an aff't and a Memo in Opp. (since it was clear they were not). Bar counsel knew what I was doing since I asked for and received research from Bar counsel, which I incorporated in the Memo. The Memo lays out the facts and all the reasons why the M/SJ should be denied. As drafted, the denial of the M/SJ is so obvious that the referee shouldn't even need to have a hearing.

Quite by accident I learned Fri afternoon that Bar counsel has made a "lot of changes" to the Memo but so far (see below) they are refusing to discuss those changes. Substantive changes, especially by someone who does not know the facts or the law, could be disastrous. In the case of the SOL the Bar has had to resort to a M/Rehearing (which I wrote) to make the points which should have been made at the original hearing and, hopefully, that will be sufficient so that the Supreme court doesn't conclude that the Bar waived all those points by not making them in the original argument. But a "lot of changes" in the Memo on the M/SJ could put the Bar back in the same position. There is still time to act since the Memo is not going to be filed until sometime Mon.

I also learned that lead counsel on these cases remains the same, notwithstanding what happened on the M/Dismiss and the fact that she is the least experienced lawyer in the office (and this is probably the most complex and fact intensive case the Bar is currently prosecuting). Since there appears to be a culture in the office that lead counsel argues all the motions, the same lawyer that argued the SOL motion -- and missed all the points on the motion -- is scheduled to argue the M/SJ. She obviously has no intention to go over it with me in advance even though it is the norm for trial lawyers to rehearse before important arguments and her past performance does not bode well for her preparation.

And, "we will submit your aff't" is no answer for if the motion is not correctly argued in both the Memo and at oral argument, it could be easily lost, given with what we are dealing with as a referee.

We also need to get past the "you need to rely on us to get it right" attitude. I thought that "trust me was put to rest with the SOK debacle.

Yes we have a very inexperienced referee but Bar counsel completely missed every issue that should have been argued at the motion. Persistence with a "trust me" approach will only lead to more problems.

I know you are working on obtaining a Special Prosecutor but, in the meantime, something needs to be done. Since Adria does not intend to do anything to head this off, I am appealing to you.

P.S. The protestations below about my involvement in preparing the Memo seem strange since I wrote the M/Rehearing on the SOL and there was no complaint then.

-----Original Message-----

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Saturday, October 05, 2013 7:13 PM
To: Larry Stewart
Subject: Re: Kasnes M/SJ

Larry:

We appreciate and value your help. As I have mentioned, the complainant in this matter is The Florida Bar. We must and should submit our own work product. I value your input and do not question your abilities, but you are just going to have to rely in what Ghenete, Alan and I submit to the referee.

I cannot have you write our motions, our memorandum, nor do I feel comfortable submitting a document to the referee that is signed by us yet drafted by you.

We will submit your affidavit and Sammy's but our work has to be our own without your approval or revisions. Thank you for your anticipated understanding.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====
To: 'Adria Quintela' <aquintel@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "10-05-2013" "07:54AM"
Subject: Kanes M/SJ
=====

Adria: I need to talk to you ASAP. As you probably know I have been working on a Memo in Opp to the Kanes M/SJ for over a week. Last Tue I sent a draft of that Memo - which incorporated research from Alan and Ghenete -- noting that it still needed to be updated for Sammy Cacciatore's aff't (which at that time was not yet done).

Yesterday I sent an updated version of the Memo which had the references to the Cacciatore aff't plus changes/corrections in the legal argument on the role of the underlying judgments (I had done add'l research) and typo and grammatical fixes. It was then that I first learned - quite by accident -- that Ghenete had made a "lot of changes" to the original draft.

I am very concerned about a "lot of changes" to the Memo. Like the SOL issue, if properly presented this should be a slam dunk winner. However, neither Ghenete nor Alan have yet to interview us or learn the underlying facts, especially all the distortions of the PIP lawyers and why they are wrong. In addition, the Memo lays out all the legal reasons why the M/SJ should be denied. Changes to the Memo could have the inadvertent effect of either abandoning key legal points or taking factual positions that could prove to be adverse down the road.

I don't have a problem with non-substantive changes but if there are any substantive changes it would be a huge mistake. We now know that the referee is quite capable of making very erroneous decisions. If he grants this motion it is imperative that the record before the Supreme court reflect that we preserved all arguments and had the facts right.

I would like to go over the changes to the Memo and, if substantive, discuss them with you. I can be reached at 305-799-0163.

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From: Adria Quintela
To: Larry Stewart
Subject: RE: Addendum to M/Rehearing
Date: 10/07/2013 02:00 PM

Agreed. Thanks,

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

* Larry Stewart ---10/07/2013 01:55:26 PM---Good. But don't let Tynan get you bogged down in the nuisances of the Watson case v. the Marks & Fi

From: Larry Stewart <lsstewart@stfbllaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>
Date: 10/07/2013 01:55 PM
Subject: RE: Addendum to M/Rehearing

Good. But don't let Tynan get you bogged down in the nuisances of the Watson case v. the Marks & Fischer cases. You have too many good arguments in the M/Rehearing, any one of which is sufficient for rehearing and denial of the M/Dismiss

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Adria Quintela [mailto:aquintel@flabar.org]
Sent: Monday, October 07, 2013 1:49 PM
To: Larry Stewart
Subject: RE: Addendum to M/Rehearing

We will bring it to the judge's attention tomorrow. I have all of the documents provided to me and those will be brought to the judge's attention.

Adria E. Quintela

Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

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From: Larry Stewart <lsstewart@stfblaw.com>
To: 'Adria Quintela' <aquintel@flabar.org>
Date: 10/07/2013 01:46 PM
Subject: RE: Addendum to M/Rehearing

Got it. Why wouldn't you want this neophyte country court judge to know that a 5th DCAQ judge has denied a M/Dismiss that was based in part of a claim that the SOL expired? You wouldn't be claiming that the ruling was res judicata, merely informative.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Adria Quintela [<mailto:aquintel@flabar.org>]
Sent: Monday, October 07, 2013 1:40 PM
To: Larry Stewart
Cc: William C. Hearon
Subject: Fw: Addendum to M/Rehearing

Adria E. Quintela
Chief Branch Discipline Counsel

November 5th at 1 S.E. 3rd Avenue, Miami, Florida

Please get back to be on these matters as soon as possible.

VTY

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

From: Larry Stewart
Sent: Friday, October 04, 2013 5:38 PM
To: Larry Stewart; 'Ghenete Wright Muir'; 'Alan Pascal'; 'Adria Quintela'
Cc: William C. Hearon; 'Todd Stewart'; Emily Sanchez
Subject: RE: Your deposition

Date in letter should be 2007, not 2003.

From: Larry Stewart
Sent: Friday, October 04, 2013 3:06 PM
To: Ghenete Wright Muir; 'Alan Pascal'; Adria Quintela
Cc: William C. Hearon; Todd Stewart
Subject: FW: Your deposition

Both Bill Hearon and I have received requests for depo dates from Tozian's office. The Oct dates are no good for Bill. We can tentatively do the dates in Nov but there should be some understandings about the scope of the deops. Allowing them free reign plays into their plans to re-try the underlying case. Also, assuming that the cases are consolidated, we should only be subject to deops one time. I suggest that you send them this letter:

Dear Mr. Tozian:

Mr. Stewart and Mr. Hearon have informed us that you have asked them for deposition dates. Before proceeding further, I would like

to know the scope of the dispositions you plan to take. As you know, both Mr. Stewart and Mr. Hearon have already been questioned extensively about the matters involved in these grievances, both in pre-trial depositions and at the trial of the underlying case. Mr. Stewart was deposed on two occasions and was on the witness stand for 10 days. Mr. Hearon was deposed and on the witness stand for several days. We believe that any new depositions should be limited to updating matters since the trial in the fall of 2003. In other words, the depositions should not rehash matters already covered.

Please let us know if you agree. If you do not, we will need to seek a protective order prior to the commencement of the depositions.

Also, neither Mr. Stewart nor Mr. Hearon are available on the dates that you have suggested in October. Assuming that we have agreement on the scope of the depositions, I suggest that they be taken in Miami at the offices of Stewart Tilghman Fox Bianchi & Cain on November 4th, with Mr. Stewart's commencing at 9am and Mr. Hearon's at 1pm.

Please get back to be on these matters as soon as possible.

VTY

From: Mary Masferrer
Sent: Friday, October 04, 2013 10:38 AM
To: Larry Stewart
Subject: Your deposition

Angela from Mr. Tozian's office called regarding your availability for deposition. She gave me October 28 and November 5-7. The depositions will be taken in Miami and she did mention that they wanted to set up two depositions for the same day. Their telephone number is (813) 273-0063.

Mary Masferrer
Assistant to David W. Bianchi
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone: (305) 358-6644

From: Adria Quintela
To: Larry Stewart
Cc: Kenneth L. Marvin
Subject: Re: Kasnes M/SJ
Date: 10/05/2013 07:12 PM

Larry:
We appreciate and value your help. As I have mentioned, the complainant in this matter is The Florida Bar. We must and should submit our own work product. I value your input and do not question your abilities, but you are just going to have to rely in what Ghenete, Alan and I submit to the referee.
I cannot have you write our motions, our memorandum, nor do I feel comfortable submitting a document to the referee that is signed by us yet drafted by you.

We will submit your affidavit and Sammy's but our work has to be our own without your approval or revisions. Thank you for your anticipated understanding.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954) 835-0233
(954) 835-0133 fax
aquintela@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====

To: 'Adria Quintela' <aquintela@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "10-05-2013" "07:54AM"
Subject: Kasnes M/SJ

=====

Adria: I need to talk to you ASAP. As you probably know I have been working on a Memo in Opp to the Kasnes M/SJ for over a week. Last Tue I sent a draft of that Memo - which incorporated research from Alan and Ghenete -- noting that it still needed to be updated for Sammy Cacciatore's aff't (which at that time was not yet done).

Yesterday I sent an updated version of the Memo which had the references to the Cacciatore aff't plus changes/corrections in the legal argument on the role of the underlying judgments (I had done add'l research) and typo and grammatical fixes. It was then that I first learned - quite by accident -- that Ghenete had made a "lot of changes" to the original draft.

I am very concerned about a "lot of changes" to the Memo. Like the SOL issue, if properly presented this should be a slam dunk winner. However, neither Ghenete nor Alan have yet to interview us or learn the underlying facts, especially all the distortions of the PIP lawyers and why they are wrong. In addition, the Memo lays out all the legal reasons why the M/SJ should be denied. Changes to the Memo could have the inadvertent effect of either abandoning key legal points or taking factual positions that could prove to be adverse down the road.

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From: Ghenete Wright Muir
To: Sammy Cacciatore
Cc: Vanessa McCurry; Emily Sanchez; Alan Pascal
Subject: RE: Aff in support of Memo in Opp of Kanes MSJ
Date: 10/04/2013 03:00 PM

Thank you Sammy. We look forward to receiving your signed affidavit from your assistant.

Ghenete Wright Muir
Bar Counsel
The Florida Bar
Lawyer Regulation- Ft. Lauderdale
Phone: 954-835-0233
Fax: 954-835-0133
gwrightmuir@flabar.org

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* "Sammy Cacciatore" ---10/04/2013 02:51:05 PM---Ghenete.

From: "Sammy Cacciatore" <sammy@nancelaw.com>
To: "Ghenete Wright Muir" <GWrightMuir@flabar.org>
Cc: "Sammy Cacciatore" <sammy@nancelaw.com>, "Vanessa McCurry" <vmccurry@nancelaw.com>
Date: 10/04/2013 02:51 PM
Subject: RE: Aff in support of Memo in Opp of Kanes MSJ

Ghenete,

I have reviewed the affidavit and it covers my discussion with you and Alan. A job well done. I have added some language at the end of the second numbered paragraph regarding my involvement in ethics matters while on the Board of Governors of the Bar which my assistant is sending to you.

Sammy
Sammy@NanceLaw.com
321-777-7777

From: Ghenete Wright Muir [mailto:GWrightMuir@flabar.org]
Sent: Friday, October 04, 2013 12:00 PM
To: Sammy Cacciatore
Cc: Vanessa McCurry; Emily Sanchez; Alan Pascal
Subject: Aff in support of Memo in Opp of Kanes MSJ

Good Morning Sammy:

Attached for your review is a draft aff't based on your opinions. Please make sure it accurately states your opinions and, if it does not, make any changes necessary so that it does. Note that your CV needs to be attached as Ex A and para 2 needs some more material.

When you have it in final form, please execute it and send back. As you know, the M/SJ is set for next Thursday and we need to incorporate your opinions into the Memo in Opposition so there is not a lot of time. Thank you.

Ghenete Wright Muir
Bar Counsel
The Florida Bar
Lawyer Regulation- Ft. Lauderdale
Phone: 954-835-0233
Fax: 954-835-0133
gwrightmuir@flabar.org

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From: Adria Quintela
To: Larry Stewart
Cc: Alan Pascal; Adria Quintela; Ghenete Wright Muir; Emily Sanchez; William C. Hearon; Todd Stewart
Subject: RE: Draft Response to Kane's Motion to Strike
Date: 09/22/2013 09:27 PM

Thank you. Appreciate you taking the time.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintela@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====

To: 'Alan Pascal' <APascal@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "09-22-2013" "03:17PM"
Cc: Adria Quintela <aquintela@flabar.org>, Ghenete Wright Muir <GWrightMuir@flabar.org>, Emily Sanchez <ESanchez@flabar.org>, "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <todd@trialcounselor.com>
Subject: RE: Draft Response to Kane's Motion to Strike

=====

My suggestions attached in redline.

From: Alan Pascal [mailto:APascal@flabar.org]
Sent: Thursday, September 19, 2013 2:37 PM
To: Larry Stewart
Cc: Adria Quintela; Ghenete Wright Muir; Emily Sanchez
Subject: Draft Response to Kane's Motion to Strike

Hi Larry,

Please read our draft response to Kane's motion to strike. Please feel free to make any suggested edits or comments.

Sincerely,

Alan A. Pascal
Senior Bar Counsel
The Florida Bar
Lake Shore Plaza II, Suite 130
1300 Concord Terrace
Sunrise, Florida 33323
Tel. (954) 835-0233
Fax (954) 835-0133
apascal@flabar.org<mailto:apascal@flabar.org>

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[attachment(s) kane response to motion to strike.doc removed by Adria Quintela/The Florida Bar]
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From: Larry Stewart
To: 'APascal@flabar.org'; Ghenete Wright Muir; Ghenete Wright Muir
Cc: William C. Hearon; Todd Stewart
Subject: M/Rehearing
Date: 09/16/2013 09:56 AM
Attachments: marks fleischer motion for rehearing.doc

Attached are my thoughts on the M/Rehearing. I started redlining your draft but it became too much and too confusing. As you will see, I re-ordered certain of the points – for example, moving up the erroneous statement about your position on the SOL to the first point. I added 1 new point and beefed up others but all your points are still there even though the form might be different. There are still a number of things that need to be filled in which are highlighted in yellow.

I will be shortly sending you my affidavit. There are a bunch of attachments to it which I will probably send in a separate message.

A few things to note about this motion:

1. Because the cases are not yet consolidated, you need to file two separate motions, one in each case.
2. Under the Rehearing Rule 1.530(c) my aff't must be filed with the M/Rehearing
3. I eliminated references to M/Reconsideration and Relief from Judgment. We cannot meet the test for Relief from judgment and Reconsideration is duplicative of Rehearing. Using those terms confuses the issue.
4. Please check and make sure the Rule 3-7.4(e) and the Standing Bd of Govs policy re deferral were both in effect at all times of these cases. There was some suggestion in the hearing that one of both weren't and that they only were enacted later.
5. Re the sequence of events on deferral – pp 7 – 8 – my file shows that Bar counsel made the initial decision. We then asked for Bd of Govs review and the Bd concurred. Do I have that correct?
6. For some reason there is a formatting problem with the footnotes in the text. They appear as numbers rather than footnotes. I have highlighted them in yellow for ease of finding. I assume you all can fix that.
7. Please review carefully to make sure that I didn't misstate something about the timing of events.

Please also review carefully for grammar, punctuation, spelling, etc.

Larry S. Stewart
Stewart Tilghman Fox Bianchi & Cain, P.A.
One S.E. Third Avenue, Suite 3000
Miami, FL 33131
Telephone (305) 358-6644
Fax (305) 358-4707

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From: Adria Quintela
To: Larry Stewart
Cc: Adria Quintela; 'APascal@flabar.org'; Ghenete Wright Muir; William C. Hearon; Todd Stewart
Subject: RE: Charles Kane, TFB File No. 2008-51,559
Date: 09/15/2013 09:03 AM

Already working on that...thanks.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintel@flabar.org

-----Larry Stewart <lsstewart@stfblaw.com> wrote: -----

=====

To: 'Adria Quintela' <aquintel@flabar.org>, "'APascal@flabar.org'" <APascal@flabar.org>, 'Ghenete Wright Muir' <GWrightMuir@flabar.org>
From: Larry Stewart <lsstewart@stfblaw.com>
Date: "09-14-2013" "11:25AM"
Cc: "William C. Hearon" <bill@williamhearon.com>, 'Todd Stewart' <Todd@trialcounselor.com>
Subject: RE: Charles Kane, TFB File No. 2008-51,559

=====

The law cited in this M/Strike is basically right but off point. You have not listed the judges to testify about either the meaning of their decisions nor their mental process in arriving at those decisions. Rather they are listed to testify about the false claims made before them and, in the case of Judge Kimball, the violation of his order. That is proper.

I suggest that you file a memo of Law on this since the referee obviously does not get it and might be prone to grant the motion.

From: Emily Sanchez [mailto:ESanchez@flabar.org]
Sent: Thursday, September 12, 2013 9:00 AM
To: Larry Stewart
Subject: Charles Kane, TFB File No. 2008-51,559
Importance: High

Respondent's Motion to Strike Witnesses 09/11/2013

=====

Emily Sanchez
Assistant to Ghenete Wright Muir
Lawyer Regulation - Fort Lauderdale
ph. (954) 835-0233 ext. 4124
fax (954) 835-0133
esanchez@flabar.org<mailto:esanchez@flabar.org>

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.

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From: Adria Quintela
To: Larry Stewart
Cc: Adria Quintela
Bcc: Emily Sanchez
Subject: Re: FW: Transcript
Date: 09/12/2013 07:21 AM

I also emailed you the transcript. I am out of the office this morning but am forwarding your message to Emily so that she can assist you.

Adria E. Quintela
Chief Branch Discipline Counsel
The Florida Bar
Lawyer Regulation-Ft. Lauderdale
(954)835-0233
(954)835-0133 fax
aquintela@flabar.org

-----Larry Stewart <lsstewart@stfbllaw.com> wrote: -----

=====

To: 'Adria Quintela' <aquintela@flabar.org>
From: Larry Stewart <lsstewart@stfbllaw.com>
Date: "09-12-2013" "07:08AM"
Subject: FW: Transcript

=====

Have you learned when you will get the transcript of the hearing? I would also like to talk to you this morning about how to proceed on the M/Rehearing. Please call me at 305-799-0163.

From: Larry Stewart
Sent: Wednesday, September 11, 2013 9:19 AM
To: Ghenete Wright Muir; Alan Pascal; Adria Quintela
Cc: William C. Hearon; Todd Stewart
Subject: Re: Transcript

When will you receive the transcript of the hearing? Please forward it to me immediately.

Sent from my iPad

Please note: Florida has very broad public records laws. Many written communications to or from The Florida Bar regarding Bar business may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure. On Sep 10, 2013, at 2:47 PM, "Larry Stewart" <lsstewart@stfbllaw.com<mailto:lsstewart@stfbllaw.com>> wrote:
Some initial thoughts for rehearing, not necessarily in order of priority:

1. I would file all of Marks and Fleischer's responses to the grievance and argue that they never raised the SOL before filing their Answers on 4/11/13.
2. I would file all of the responses of all the co-Respondents to the grievance. There are several from Watson and the Kanes which ask for postponement. From that I would argue that the co-respondents asked for postponement until the appellate process was over and neither Marks nor Fleischer ever objected. In fact, they took full advantage of the delay (by continuing to practice). This goes to refute the Order that M & F did nothing to toll the time. I would couple this with the law on concerted action in at least a footnote.
3. I would raise and file if necessary the standing Bar policy re deferring action pending the outcome of underlying litigation. If the referee were correct, it would render the standing Bar policy nonsense.
4. There are a number of factual misstatements in the Ms/Dismiss and in the M & F affidavits. I would argue that this being a M/Dismiss the facts have to be taken from Judge Crow's and Kimball's orders - as plead in the complaints. In that respect, I would argue that the facts, as set forth in both Judge Crow and Judge Kimball's orders, show that at all times material the 6 PIP lawyers were acting in lockstep and concert. See Judge Crow's Final Judgment at pp 2 - 11 and Judge Kimball's Memorandum Opinion at pp 4 - 17. I think this is important because you want to rely on those orders in the coming appeal of the M & F order. Since those orders are incorporated into the complaints against M & F they must be taken as true for purposes of the M/Dismiss. I would also cite the cases holding that such orders are sufficient by themselves to find ethical violations. Relying on the M & F affidavits creates factual issues which cannot be resolved on a M/Dismiss. Indeed the Order concedes that there were "disputed issues of fact" and those cannot be resolved at a M/Dismiss. This is, however, probably a minor point since the referee did not appear to use any of those misstatements. The more difficult problem is that there is no refutation of the factual claims of prejudice. But see below on those points.
5. As far as the destruction of their files and records is concerned, you can make the point that they conceded that they knew the ethical issues existed (were present in the underlying litigation). When they destroyed the files and records - admittedly before the SOL had expired, they did that at their own risk.
6. As far as the "dead witness," her death does not prejudice M & F. They can testify about those events. In any event, she was only a Progressive adjuster and a bit player as far as the secret settlement was concerned - not even present at the drafting of the MOU or the amendment to the MOU. In addition, Fran Anania, Progressive's lawyer, is available and he was the principle Progressive representative - he made the offers and he is the one who with the Respondents drafted the MOU and the amendment to the MOU. It is not every dead witness who creates prejudice; only

material witness whose testimony cannot be duplicated from other sources.

7. The order concedes that the grievance was timely filed, i.e., begun. That should be the end of it. But the Order then states that the Bar's position is that the Bar had 6 years thereafter to file a complaint. I hope that is a misstatement because it is clearly wrong since the 6 years run from the date of the event, i.e., May '04. SOL relates to how long one has the initiate proceedings, not how long one has to process the matter once it has been initiated. If a lawsuit is timely filed, it doesn't matter how long it takes to process the case. The Order of Dismissal confuses "commencement" with the filing of a "formal complaint." [See Rule 3-3.2(a) referring to a "formal complaint."] Clearly those are two different things. I think the correct argument is that the proceedings were "commenced" with the filing of the grievance complaint and, once commenced, they were held in abeyance in accord with the standing Board policy and the requests of the co-respondents pending the appellate process. (The latter point is why it is important to make the point that the co-Respondents were acting throughout in lockstep - see # 4 above.) Note that Rule 3-7.16 does not say that a formal complaint must be filed within 6 years, only that the proceedings must be "commenced." The plain meaning of "commenced" is to begin or start. In Florida a grievance is begun or started by either the Bar or by an individual filing a written complaint under oath. If Bar counsel determines the allegations would constitute an ethical violation, a disciplinary file is opened and the initial inquiry "shall be considered as a complaint." Rule 3-7.3(b). Note the difference between a "complaint" and a "formal complaint." Thereafter, the process requires an investigation, grievance committee hearing and a finding of probable cause before a formal complaint can be filed. Of course, the problem here is that the Bar delayed proceeding until Jan 2012 (or whenever the first Notice of the grievance committee hearing was furnished to the respondents) but if you can make the point that the proceedings were commenced with the initial complaint, it should not make any difference that a formal complaint was not filed until 3/13/13..

Henry Cox - Re: Watson

From: Robert Sweetapple <rsweetapple@sweetapplelaw.com>
To: Hank Cox <hcox@bedellfirm.com>
Date: 2/3/2015 8:58 PM
Subject: Re: Watson

Thanks

Regards, Bob Sweetapple

On Feb 3, 2015, at 3:26 PM, Hank Cox <hcox@bedellfirm.com> wrote:

Bob -- on top of this. Will get back to you soon. Hank Cox

Sent from my iPad

On Jan 23, 2015, at 10:52 AM, Cynthia Bailey <cbailey@sweetapplelaw.com> wrote:

Mr. Cox,

Please see attached correspondence from Bob Sweetapple. Thank you.

CYNTHIA J. BAILEY

Certified Paralegal/Florida Certified Paralegal/Florida Registered Paralegal
Sweetapple, Broeker & Varkas, P.L.

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<Coxe.let re emails.1.23.15.pdf>

Henry Coxe - Re: Watson

From: Henry Coxe
To: Sweetapple, Robert
Date: 2/17/2015 10:11 AM
Subject: Re: Watson

Bob -- got 30 seconds to talk?

Hank



HENRY M. COXE, III
BOARD CERTIFIED CRIMINAL TRIAL LAWYER

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The Bedell Building | 101 East Adams Street | Jacksonville, Florida 32202

Henry Coxé - Re: Watson

From: Henry Coxé
To: Bailey, Cynthia
Date: 2/20/2015 12:55 PM
Subject: Re: Watson
CC: Sweetapple, Robert

Bob -- can you call me? 904-612-0357

Hank



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From: Henry Coxe
To: Sweetapple, Robert
BC Nelson, Melissa W.
Date: 2/22/2015 5:28 PM
Subject: Re: Watson

Bob -- been trying to reach you -- on my cell whenever you can -- if I don;t answer I'll get right back to you --
904-612-0357

Hank

Henry M. Coxe, III
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From: Henry Coxe
To: Sweetapple, Robert
Date: 2/23/2015 5:39 PM
Subject: Re: Watson

Bob -- been in a meeting all day -- too late to talk in a little bit? If OK, best # to call you?

Hank Coxe

Henry M. Coxe, III
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From: Henry Coxe
To: Robert Sweetapple
CC: Jill Crawley Griset; Nelson, Melissa W.
BC Coxe, Henry; Erica Cruzat
Date: 2/24/2015 12:49 PM
Subject: Subpoena response

Bob - -as we discussed, I have copied this message to Jill Griset and Melissa Nelson, both of McGuire Woods. They are interested in talking to you as soon as possible in order for them to get some questions answered and get this resolved for everyone as soon as possible.

Many thanks,

Hank Coxe

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EXHIBIT L

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April 10, 2015

VIA FED-EX

Mr. Robert A. Sweetapple
Law Offices of Sweetapple, Broeker & Varkas, P.L.
20 S.E. 3rd Street
Boca Raton, FL 33432

Re: Case No.: SC13-1333; Judge Laura M. Watson

Dear Mr. Sweetapple,

I write to follow up on Jill Griset's letter of February 25, 2015 ("February 25 Letter") regarding the Florida Bar's (the "Bar's") response to the Subpoena Duces Tecum issued to Ghenete Wright Muir dated November 12, 2013 ("the Subpoena").

We have completed the collection and review outlined in detail in the Subpoena section of the February 25 Letter. On the enclosed disc and via Managed File Transfer, we are producing unique nonprivileged documents found in that collection that are responsive to the Subpoena or, even if not responsive to the Subpoena, if they merely mention "Watson" and based on our searches appeared to be "true hits" for the term (i.e., that were not documents mentioning a person other than Laura Watson with the same name.)¹

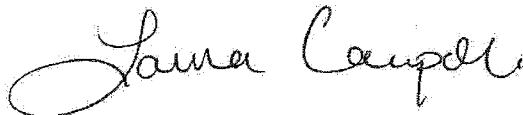
We also included "families" of produced documents in the production if they were not privileged. So, for example, if a document was attached to a document that mentioned "Watson," and it was not privileged, we produced it regardless whether the individual attachments are separately responsive to the Subpoena.

¹ The Subpoena was issued in November 2013 and the Bar completed its initial production on January 9, 2014. For purposes of our review, we evaluated all documents falling within our collection and dated on or before January 17, 2014. We are still evaluating documents that post-date January 17, 2014. Although those documents would not have been originally produced, as they post-dated the Bar's response to the Subpoena and many of them are privileged, if we find additional documents from that set that are not privileged and responsive to the Subpoena, we will produce them. We are also still performing quality control procedures on a small number of documents dated on or before January 17, 2014 and if we find additional documents that are not privileged and responsive to the Subpoena, we will produce them.

Robert A. Sweetapple
Law Offices of Sweetapple, Broeker & Varkas, P.L.
April 10, 2015
Page 2

As Ms. Grisette made clear in the February 25 letter, we are willing and ready to discuss any questions or concerns you may have regarding the scope of our collection and review. As of this date, we have not received any communication from you regarding the searches we proposed to you in our February 25 letter.

Sincerely,

A handwritten signature in cursive script, reading "Laura Y. Campoli". The signature is written in dark ink and is positioned above the printed name.

Laura Y. Campoli

LYC:ebm
Enclosure

cc: Henry Coxe (via e-mail)
Jill Grisette (via e-mail)
Melissa Nelson (via e-mail)
Rutledge R. Liles (via e-mail)
Adria Quintela (via e-mail)